PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SPACE INDUSTRY BILL [*LORDS*]

First Sitting

Tuesday 23 January 2018

(Morning)

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not later than

Saturday 27 January 2018

The Committee consisted of the following Members:

Chairs: †Mr Adrian Bailey, Mr Peter Bone

† Bowie, Andrew *(West Aberdeenshire and Kincardine)* (Con)
† Churchill, Jo *(Bury St Edmunds)* (Con)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Double, Steve *(St Austell and Newquay)* (Con)
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Ford, Vicky *(Chelmsford)* (Con)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Garnier, Mark *(Wyre Forest)* (Con)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Green, Chris *(Bolton West)* (Con)
† Johnson, Joseph *(Minister of State, Department for Transport)*
† Monaghan, Carol *(Glasgow North West)* (SNP)
† Morris, David *(Morecambe and Lunesdale)* (Con)
† Murray, Mrs Sheryll *(South East Cornwall)* (Con)
† Ruane, Chris *(Vale of Clwyd)* (Lab)
† Turley, Anna *(Redcar)* (Lab/Co-op)
† Turner, Karl *(Kingston upon Hull East)* (Lab)
† Whitford, Dr Philippa *(Central Ayrshire)* (SNP)
Williamson, Chris *(Derby North)* (Lab)

Mike Everett, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 23 January 2018

(Morning)

[Mr Peter Bone *in the Chair*]

Space Industry Bill [*Lords*]

9.25 am

The Chair: We are now sitting in public and the proceedings are being broadcast. Before we begin, everyone should ensure that their electronic devices are turned off or switched to silent mode. Tea and coffee are not allowed during sittings because they are hot drinks. I also remind Members that they need to declare any relevant interests publicly. They can do that now, if they wish, or when they first rise to speak. Does anyone wish to declare any interests?

David Morris (Morecambe and Lunesdale) (Con): I do not know whether it is relevant or not, but I am the chairman of the all-party parliamentary group on space.

The Chair: Thank you.

Today we will consider the programme motion on the amendment paper, then a motion to enable the reporting of written evidence for publication.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 23 January) meet—

(a) at 2.00 pm on Tuesday 23 January;

(b) at 11.30 am and 2.00 pm on Thursday 25 January;

(c) at 9.25 am and 2.00 pm on Tuesday 30 January;

(2) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 12; Schedule 1; Clauses 13 to 17; Schedule 2; Clause 18; Schedule 3; Clauses 19 to 21; Schedule 4; Clause 22; Schedule 5; Clauses 23 to 40; Schedule 6; Clauses 41 and 42; Schedule 7; Clause 43; Schedule 8; Clauses 44 and 45; Schedule 9; Clauses 46 to 59; Schedule 10; Clauses 60 and 61; Schedule 11; Clauses 62 to 66; Schedule 12; Clauses 67 to 71; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 30 January.—*(Joseph Johnson.)*

The Chair: Therefore the deadline for amendments to be considered at the first two line-by-line sittings has passed. The deadline for amendments to be considered at the third line-by-line sitting is the rise of the House on Thursday.

Ordered,

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

The Chair: We now begin line-by-line consideration of the Bill. Today's selection list is available in the room and on the Bill website. It shows how selected amendments have been grouped together for debate. Grouped amendments are generally on the same or a similar issue. A Member who has put their name to the lead amendment is called first. Other Members are free to catch my eye to speak on all or any of the amendments in that group. A Member may speak more than once in a single debate.

At the end of a debate on a group of amendments, I shall call the Member who moved the lead amendment again. Before they sit down, they need to indicate whether they wish to withdraw the amendment or press it to a Division. If a Member wishes to press any other amendments or new clause in a group to a vote, they need to let me know. I shall work on the assumption that the Minister wishes the Committee to reach a decision on all tabled Government amendments.

Please note that decisions on amendments do not take place in the order that they are debated, but in the order that they appear on the amendment paper. In other words, debate occurs according to the selection list, and decisions are taken when we come to the clause that the amendment affects.

I shall use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following debates on relevant amendments. I hope that that explanation is helpful.

The Committee has just agreed a programme motion, which will be reproduced on the amendment paper from tomorrow. The motion sets out the order in which we will consider the Bill.

Clause 1 ordered to stand part of the Bill.

Clause 2

Duties and supplementary powers of the regulator

Karl Turner (Kingston upon Hull East) (Lab): I beg to move amendment 13, in clause 2, page 2, line 25, at end insert—

"(ea) the effect on the environment and on local communities of activities connected with the operation of spaceflight activities or the operation of a spaceport as licensed under this Act;"

This amendment adds impact on the environment and local community activities to the list of areas the regulator should take into account when exercising functions under this Act.

The Chair: With this it will be convenient to discuss Government new clause 1—*Grant of licences: assessments of environmental effects.*

Karl Turner: It is a pleasure to serve under your chairmanship, Mr Bone. The amendment adds impact on the environment and local community activities to the list of areas the regulator should take into account when exercising functions under the Bill.

I am grateful that the Government listened to my colleagues in the other place, tabled new clause 1 and agreed to undertake assessments of environmental effects before the regulator grants certain licenses. I pay tribute to my Front-Bench colleagues in the other place, who did a great deal of work to improve the Bill by persuading the Government to make a number of crucial concessions.

I do not intend to press the amendment to a vote, but I would like to ask the Minister whether he will set out on the record exactly how the proposed operator licensing regime and its regulation powers will work in relation to existing planning laws and processes. Concerns were raised in the other place that the regulator or persons with an operator license will be able to overrule or disregard any existing planning regulations, laws and processes when it comes to potential spaceport or spaceflight operations in the UK.

As I indicated, I am happy to withdraw the amendment if the Minister is prepared to clear up any ambiguity surrounding existing planning procedures and the development the UK's space industry. I hope he listens not only to the concerns that we raise in Committee but to the expert contributions in the other place.

The Minister of State, Department for Transport (Joseph Johnson): It is a pleasure to serve under your chairmanship on this important Bill, Mr Bone. I echo the hon. Gentleman's thanks to Members in the other place for the collegiate and helpful way in which they developed the Bill into its current state.

I recognise the hon. Gentleman's concerns about environmental protection and the impact on local communities of spaceflight activities and the operation of spaceports under the Bill. As he said, similar issues were raised in the other place. Following constructive debates in the other place on environmental issues, the Government reviewed the compatibility of the existing planning and environmental framework with spaceflight activities. During that review, certain situations were identified where the existing framework may not provide the environmental protection that we all wish to be required of spaceflight activities. Discussions have since taken place across Government to address that potential gap, resulting in the tabling of Government new clause 1.

New clause 1 will place a mandatory requirement on an applicant for either a launch or a spaceport licence to submit an assessment of the environmental effects of their proposed activity as a precondition of receiving a licence. That duty will ensure that appropriate assessments of environmental effects are conducted by the operator or spaceport licensee and considered by the regulator prior to the determination of an application for a licence.

As hon. Members are aware, there is already a comprehensive body of environmental and planning legislation with which spaceports and spaceflight operators will need to comply, independently of the requirements in the Bill. As such, the new clause seeks to ensure that appropriate assessments are undertaken without placing a disproportionate burden on applicants. To achieve that, it allows for existing equivalent environmental assessments to be considered where appropriate. That will be the case only where the regulator is satisfied that there has been no material change of circumstance since the previous assessment was prepared.

I hope I have reassured hon. Members of the Government's intention to ensure that spaceport and operator licences are granted only following a robust assessment of the environmental effects of the activities those licences permit. New clause 1 goes even further than the hon. Gentleman's amendment 13. It adds to the duty on the regulator in clause 2(2)(e) to take into account any environmental objectives set by the Secretary of State, including those set by the Environment Agency.

We also amended schedule 1 in the other place to include an indicative licence condition that, if included in a licence, would require assessments of the impact of noise and emissions from spaceflight activities. I hope in the light of the Government new clause that the Committee will agree that the Bill contains robust environmental protections, and I ask the hon. Gentleman to withdraw his amendment.

Dr Philippa Whitford (Central Ayrshire) (SNP): I, too, welcome the amendment and the Government's new clause to strengthen the environmental protections. Those hoping to establish spaceports are still concerned about exactly what is expected of them. It is about trying to get the right balance between protecting the community and allowing spaceports to develop. The sooner the regulations and expectations are clear, the more likely it is that spaceports will go ahead. At the moment, it is hard to expect them to invest if there is still the risk that, at some point, they simply will be ruled out by one of the environmental regulations.

Karl Turner: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clauses 3 to 6 ordered to stand part of the Bill.

Clause 7

PROVISION OF RANGE CONTROL SERVICES

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

Dr Whitford: Again, I welcome any clarification, sooner rather than later, about who is envisaged as providing the range control services. It is clearly stated and welcome that the provider should be independent from those operating the spaceport or the flight. Would it be air traffic control? Who exactly is identified? The problem with the Bill is still that there is a lot of vague gaps that have not been filled in, which is causing anxiety.

Joseph Johnson: I thank the hon. Lady for her question on range controls. Clause 7 requires that range control services must be provided either by the Government or by licensed providers. At present, only one part of the Government—the Ministry of Defence—is able to provide range control services. Range safety for existing military ranges is regulated by the Defence Safety Authority, but our intention is that, for spaceflight, those services will be provided on a commercial basis. Indeed, a driving purpose of the Bill is to enable commercial and not state-sponsored or institutional spaceflight. Since range control services are one of the key mechanisms through which we will protect the public during spaceflight activities, any provider must hold a licence. That will help to ensure the regulator that only fit-and-proper persons can act as a range control service provider. I hope that clarifies the situation.

Dr Whitford: Is the Government's expectation clear to the companies that are already developing? Are they able to have the security to set up what is, in essence, yet another completely new industry to service the space launch industry?

Joseph Johnson: In our Launch UK programme, we have made it clear that range control is one of the opportunities for which we are seeking interest from industry. To that extent, the private sector is aware that this is one of the big opportunities that the Bill will enable.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8 ordered to stand part of the Bill.

Clause 9

Grant of operator licences: safety

Karl Turner: I beg to move amendment 14, in clause 9, page 7, line 37, leave out "to (4)" and insert "and (3)".

This amendment changes the requirements the regulator must satisfy in order to grant an operator licence to UK Space Port operators.

The amendment is merely a probing amendment, and I do not intend to speak to it for very long. We would like the Government to ensure that the regulator must not grant an application to a potential operator unless it has carried out a thorough risk assessment and meets the prescribed requirements as laid out in the Bill. I would like to press the Minister and seek further details on how the relationship between the Health and Safety Executive and the Civil Aviation Authority or UK Space Agency will work, and how best practices will be shared.

A lengthy debate in the other place highlighted the concerns. I am grateful to the Minister in the other place, who indicated that he would go away and work with officials. Concerns were raised, mainly by my Front-Bench colleagues in the other place and by me in the Commons on Second Reading, about how the Health and Safety Executive will work with the regulators. The Government stated that there would be a memorandum of understanding, but we are still in the dark when it comes to details.

I seek assurances from the Minister that regulators have the expertise and resources necessary to ensure that the general public are kept safe when it comes to the potential development of our space industry. I also reiterate that, so far, we have little detail on how the UK Space Agency and the CAA are going to share best practice. We would be grateful if the Minister could shed any more light on that.

Joseph Johnson: I will certainly attempt to do so. The hon. Gentleman raises the important issue of the safety requirements that regulators must take into account when deciding applications for a spaceflight operator licence under clause 9. The Bill makes it clear that safety regulation will be at the heart of the regulation of spaceflight, spaceports and associated activities. Clause 2 sets out the core duties of the regulator and establishes that ensuring the health and safety of the public is the primary duty.

Clause 9 imposes very clear requirements on both the applicant for a spaceflight operator licence and the regulator in deciding that application. Clause 9 requires that applicants for a spaceflight operator licence assess the risks to health and safety posed by the spaceflight activity. Clause 9 makes a necessary differentiation between the assessments carried out for those who voluntarily agreed to participate in spaceflight activities, which would include any crew or other spaceflight participant, and others who are not taking part in any prescribed capacity—the general public. For people taking part in spaceflight activities, details of the risk assessment required under subsection (2) will form a critical part of the informed consent form that clause 16 requires the volunteers to sign before they are allowed to participate in those activities.

The other key aspect to the clause is managing risks to the general public. Even after all steps have been taking to reduce risks to as low as is reasonably practicable, subsection (4)(b) means that the regulator will not issue a licence if the residual risk to public health and safety remains unacceptably high. If amendment 14 were passed, that protection for the general public would be removed, although I understand that, as the hon. Gentleman said, it is a probing amendment.

Subsection (5) enables the making of regulations to make provision about the matters that operators must take into account and other requirements to be met in carrying out risk assessments. Paragraphs (b) and (c) address the risk to public safety, the steps to be taken to ensure that risks are as low as reasonably practicable, and how acceptable levels of risk are to be determined. The regulations will also prescribe the factors that must be taken into account in determining acceptable levels of risk. Subsection (6) enables regulations setting out information that applicants must provide so that the regulator may be satisfied that an applicant has done what it is required to do under the licence.

9.45 am

The hon. Gentleman asked about the MOU between the CAA, the HSE and the Health and Safety Executive for Northern Ireland on aviation safety. The MOU between the HSE and the CAA on aviation safety is publicly available on the CAA website, and we expect any future MOUs between the HSE and spaceflight regulators to be made publicly available in a similar manner.

In conclusion, the clause is central to the safe conduct of spaceflight in the UK. It will ensure that risk is managed appropriately and give the regulator the power it requires to oversee that. I am confident that it sets out robust and clear requirements of applicants. I therefore ask the hon. Gentleman to consider withdrawing his amendment.

Dr Whitford: This is one of the key areas in the Bill where spaceport and launch operators do not know what is expected of them. I understand that the Government wish to consult, but the sooner that it is clarified the better. Regulations coming forward two years after Royal Assent—that comes from a comment in the Lords, and would mean the summer of 2020, when the Government had hoped to launch—would throw complete planning blight over the industry. It is not possible to borrow money to develop launch vehicles or a spaceport without any idea what standard has to be reached.

On clause 9(9) and thinking about passengers, one of the industries that will develop is space tourism. Clearly, the public must be protected as far as possible. In the past, those involved in launch or space abilities have

been incredibly fit and trained people. For those going as tourists, that will not be the case. It will be important that we carefully lay down what level of health expectation or physical training is required, because we do not want the early years of the industry to be marred by deaths in space.

Joseph Johnson: I will respond to two of the points made by hon. Members. On early visibility of licence requirements, to get the industry feeling confident that it has a clear set of rules to work with, we will continue to engage with it as we develop the detailed regulations to ensure that the legislation facilitates and supports development in the sector and provides operators with the confidence to move forward with their plans. In addition, as has been said, regulators will be holding extensive pre-licensing discussions with potential operators in order for them to provide more detailed guidance.

Karl Turner: I thank the Minister for his response and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 9 ordered to stand part of the Bill.

Clause 10

Grant of spaceport licence

Karl Turner: I beg to move amendment 15, in clause 10, page 8, line 27, leave out 'satisfied that'.

This amendment ensures that two defined criteria steps are properly defined for granting an application for a space port licence.

The amendment is intended to make the legislation clearer about the regulator not granting an application for a spaceport licence "unless satisfied that"—this is from the Bill—

"the applicant has taken all reasonable steps to ensure that risks to public safety arising from the operation of the spaceport are as low as reasonably practicable, and…any prescribed criteria or requirements are met."

Speaking purely as a lawyer, I thought the legislation would be clearer to remove "satisfied that", but on reflection that is probably just semantical. I therefore beg to ask leave to withdraw the amendment.

The Chair: The Minister might want to say something.

Joseph Johnson: If the amendment has been withdrawn, I would just beg to move that the clause stands part of the Bill.

The Chair: Ah! You are getting a little ahead of yourself, Minister.

Amendment, by leave, withdrawn.

Clause 10 ordered to stand part of the Bill.

Clause 11

Terms of licences

Karl Turner: I beg to move amendment 16, in clause 11, page 8, line 37, leave out subsection (2).

This amendment removes the specified limit they must pay in damages to an uninvolved third party in the event of an accident in operator licences.

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

Amendment 5, in clause 11, page 8, line 37, leave out "may" and insert "must".

This amendment places a definite cap on the amount of a licensee's liability.

Amendment 6, in clause 11, page 9, line 12, at end insert—

"(7) Within 12 months of this Act coming into force the Secretary of State must lay a report before Parliament setting out plans on what an appropriate maximum limit would be on the amount of the licensee's liability under subsection (2).".

This amendment would ensure that the Secretary of State decides on what level the mandatory cap for the licensee's liability is.

Karl Turner: The amendment relates to the terms of spaceport and space operator licences. I propose to remove the specified limit that must be paid in damages to an uninvolved third party in the event of an incident in the operator's licences. Clause 11 concerns the terms that may or must be included in a licence issued under the Bill authorising spaceflight activities, the operation of a spaceport or the provision of a range control services.

Colleagues in the other place were concerned about the particular wording of this section. We have heard that the amount of liability may be capped. The Minister will correct me if I am wrong, but I think it was mentioned on Second Reading in the Commons that a limit of £20 million had been suggested. I would like the Minister to clarify the issue of the cap, and that is why we have re-tabled the amendment. Although I declare an interest as a lawyer, I did not practise personal injury law and this is not my area of expertise. However, it seems to me that £20 million would cover two very serious non-fatal incidents. It would not be anywhere near enough to cover costs such as living costs and other issues that would arise from serious injury.

I want to know from the Minister, if he is prepared to tell me, whether there is a limit on how much the operator or the Government must pay in damages to an uninvolved third party in the event of an incident. It is also not clear who pays if the losses exceed the proposed cap. Are the Government the insurer of last resort? In the unlikely event of a catastrophic incident, would the Government meet the excess above any cap?

We are certainly not opposed to a cap. We just want some clarity on the issue. Therefore, I would be grateful if the Minister could clear up some of these concerns, which were also raised in the other place, where they were very well put.

The Chair: As we will also debate amendments 5 and 6 now, it seems appropriate to have the stand part debate too.

Dr Whitford: My amendment is completely the opposite of the Labour amendment. As things stand, the Government basically take liability for injury and accident and the operator has to indemnify the Government to cover that risk. What we are looking for is a change in subsection (2) from "may" to "must". The Outer Space Act 1986 makes that clear. At the moment, the liability limit is €60 million, not £20 million. Without some form of cap on the operator's liability, it is impossible for operators to get insurance. Therefore, they will simply continue to operate outside the UK under the Outer

[Dr Whitford]

Space Act, somewhere with a limit of €60 million, rather than in the UK with unlimited liability, for which they simply cannot get insurance.

Amendment 6 deals with the level of cap for the kind of launches that are likely to occur from the UK. Further on in the Bill, we would want to have perhaps a per launch cap rather than per satellite, as it is now. With CubeSats and nanosatellites launched in clusters, the liability cap would be absolutely untenable. Consultation is needed. There may be a later reference to launches that could be defined as green or amber, and it may be that different caps are set for that kind of launch as an overall approach. However, there has to be an ultimate limit and that should not be higher than the current €60 million.

The clause mentions the different aspects of launch, and those are the spaceport, the range control and the launch operator, and later there will be the satellite operator. I have tabled an amendment to a later clause to define the liabilities of those groups, with very clear margins, so that there are no gaps that a victim of an accident could fall between.

Joseph Johnson: Clause 11(2) provides a power for a licensee's liability to indemnify the Government under clause 35 to be capped in an operator licence. Amendment 16 would remove that vital power. Under both this Bill and the Outer Space Act 1986, operators have a liability to indemnify the Government against claims for damage or loss from foreign states and their nationals. That is to ensure that we meet our obligations under the UN space treaties.

However, satellite operators have previously raised concerns that such a liability is a barrier to operating in the space industry. Operators found that the unlimited liability made it difficult to raise finance or to insure against. The Government have therefore responded to those concerns.

The unlimited liability provisions under the Outer Space Act were amended by the Deregulation Act 2012 and since then licences issued under that Act for the procurement of an overseas launch and the in-orbit operation of a satellite benefit from a cap, which is set out in licence conditions.

The UK Space Agency publishes the usual level of cap in its guidance, which currently sets the cap at €60 million for standard missions. Crucially, however, the level is not set by statute, so the cap can be varied depending on the risk of the activity in question. Some activities currently regulated under the Outer Space Act, notably procuring the launch of a space object and the operation of a satellite in orbit taking place from the UK, will be regulated under this Bill in future, and it is the intention to continue to exercise the discretion to cap the liability to indemnify Government in these licences.

Therefore, following Royal Assent of this Bill, amendment 16 would reverse current Government policy and disadvantage satellite operators in the UK. Conversely, amendment 5 seeks to ensure that all operator licences must cap the liability to indemnify the Government under clause 35. Amendment 6 would then go on to ensure that the level of this cap would be set out in a report to Parliament.

I understand clearly that the intent of these amendments is to support operators in the UK and the Government welcome support for that principle, which is why we have included this power in the Bill. However, these amendments are premature. The cap on the indemnity to the Government under the Outer Space Act was based on many years of licensing the procuring of the launch of space objects and of the operation of satellites in orbit. Indeed, it was not put in place until more than 25 years after that Act gained Royal Assent. The costs and benefits of capping liability for those activities were fully considered and were subject to a full consultation with industry. We intend to take a similar approach to considering capping a launch operator's liability to Government under this Bill, as launch is a new activity in the UK and poses more risks for the UK as a launching state.

As I said on Second Reading, we intend to announce a call for evidence on all issues relating to insurance and liabilities early this year, following Royal Assent. That will allow us to start to assess the appropriateness of a cap for this new and potentially riskier activity, balancing the economic benefits of such activity with the need to protect the taxpayer.

On that basis, I hope that the hon. Member for Kingston upon Hull East will withdraw the amendment.

Karl Turner: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

10 am

The Chair: Does Dr Whitford wish to press her amendment to a vote?

Dr Whitford: I wish to press amendment 5, which would change the wording from "may" to "must". There is still room to consult on the level of the cap, but the industry requires a Government commitment that there will be a liability cap.

Joseph Johnson: We intend to explore that carefully in the consultation, taking into account the fact that launching in the UK is a riskier activity than procuring the launch overseas. It poses a higher level of risk to the UK taxpayer, and we need to consider it very carefully.

Dr Whitford: I assume the Government recognise that other launching states, such as Australia, France and the US, all have liability caps. If there is no cap, that will simply kill the launch industry dead in this country. I will not push to a vote amendment 6, which would set the cap at a particular level, but the Government should accept the principle that there will be a cap. I would be happy if the Government plan to bring forward such a measure before the third day, but simply to leave the wording as "may" leaves too much doubt.

Amendment proposed: 5, in clause 11, page 8, line 37, leave out "may" and insert "must".—*(Dr Whitford.)*

This amendment places a definite cap on the amount of a licensee's liability.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 1]

AYES

Monaghan, Carol	Whitford, Dr Philippa

NOES

Bowie, Andrew	Graham, Luke
Churchill, Jo	Green, Chris
Double, Steve	Johnson, Joseph
Ford, Vicky	Morris, David
Garnier, Mark	Murray, Mrs Sheryll

Question accordingly negatived.

Clause 11 ordered to stand part of the Bill.

Clause 12

Conditions of licences

Karl Turner: I beg to move amendment 17, in clause 12, page 9, line 41, at end insert—

"(ea) must consult the Environment Agency or (as appropriate) the Northern Ireland Environment Agency, the Scottish Environment Protection Agency or Natural Resources Wales;

"(eb) must consult any relevant local planning authority;"

This amendment ensures that the devolved Administrations are consulted in regards to respective Environment Agency bodies.

The Chair: With this it will be convenient to discuss amendment 18, in clause 12, page 10, line 4, at end insert—

'(9) In subsection (6) a "relevant local planning authority" means a local planning authority with jurisdiction over any location which would be significantly affected by the licence application."

This amendment defines 'relevant local planning authorities'.

Karl Turner: I will be brief, Mr Bone. The amendments aim to tighten up some of the ambiguous wording in the Bill. They are intended to ensure that if space activities were to be established under any of the devolved Administrations of Scotland, Northern Ireland and Wales, their respective environment agency bodies would be consulted before any decision was made on granting an operator licence in their jurisdictions. Will the Minister assure us that he will ensure that the regulator will properly consult the Northern Ireland Environment Agency, the Scottish Environment Protection Agency or Natural Resources Wales, as well as any relevant local planning authority, before an operator can be granted a UK spaceport licence?

I tabled amendment 18 with the aim of properly defining a "relevant local planning authority". We believe that the Bill is too vague and have expanded on its wording to ensure that a local planning authority is defined as an

"authority with jurisdiction over any location which would be significantly affected by the licence application".

I have seen the Minister's collegiate approach to the Committee and hope that he will note Opposition concerns, and I shall be happy to withdraw the amendment if he addresses the important points I have raised.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is always a pleasure to serve under your chairmanship, Mr Bone.

I support the amendments and hope that the Minister can answer some questions. I am speaking with a constituency interest, as Natural Resources Wales is in my constituency. As that constituency borders England, and has a maritime border, issues such as those we are considering are of regular concern to my constituents. A recent example was the building of the new Hinkley Point nuclear power station on the other side of the Bristol channel. Various significant concerns were raised about the granting of licences for the disposal of mud, which is being removed from the Hinkley Point site to the Welsh side of the channel.

I do not want to get into the specifics of that example, but as there is a question of potentially hazardous materials and the potential for cross-border contamination within the UK, I agree that the matters should be the subject of proper consultation with the devolved authorities, given the likely consequences of anything untoward happening.

Dr Whitford: I welcome the amendment. My hon. Friend the Member for Glasgow North West and I certainly support it, because three of the potential sites are in Scotland, and one is in Wales. However, as we have discussed, the industry could grow and while there is not currently a site in Northern Ireland, there could be in future. It is important that the devolved Governments should be respected and consulted.

The Government introduced new clause 1 on environmental impact right at the start, when we considered clause 2, and it is crucial that they should respect the devolved Governments' environmental agencies and local planning considerations.

Joseph Johnson: I thank hon. Members for raising important issues on consultation with relevant environmental and planning bodies. The regulator will identify what assessments of environmental effects are appropriate, during the pre-application process. In reviewing those assessments and deciding whether conditions should be attached to a licence, the regulator may wish to have an input from various environmental bodies. However, requiring consultation with the relevant environment agency and local planning authority before deciding what conditions to attach to a licence is not necessary, and may end up being disproportionate.

For example, once the industry has developed, multiple launches may occur under a separate but almost identical licence. In such a case it would be disproportionate for the regulator to have to consult the environment agency and local planning authority for each new licence. It is also worth noting that clause 2 requires the regulator to take into account any environmental objectives set by the Government, which would include any issued by the environment agency.

The existing planning, regulatory and environmental framework will continue to apply, and environmental bodies will have a say, in accordance with their statutory remit, at the relevant stages, such as when planning permission is applied for. I hope that in the light of the Government amendment and the provisions already in the Bill, Members will agree that robust assessments of

[Joseph Johnson]

environmental effects will be conducted and considered prior both to the granting of a licence and to the imposition of conditions under the Bill. I would therefore ask the hon. Member for Kingston upon Hull East to withdraw amendment 17.

Dr Whitford: I wonder whether the Government would consider including consultation with these agencies within the environmental impact assessment in clause 2, as amended by new clause 1. The Minister talks about consulting with the Environment Agency but, obviously, in the devolved administrations there are three other environment agencies and they should have their place.

Joseph Johnson: I would not want the Committee to think that we have not been engaging closely with the devolved Administrations in the development of the Bill, because we have, and over a considerable period. We have worked with Scotland, Wales and Northern Ireland at official level to ensure that all the devolved Administrations are content with provisions in the Bill. I have been out in Northern Ireland myself to discuss the opportunities this Bill presents to businesses there.

Karl Turner: While these amendments intend to ensure that the respective environmental bodies would be consulted were space activities to be established in any of the devolved Administrations—Scotland, Northern Ireland and Wales—I do not think the Government have gone anywhere near far enough on that. On that basis, I want to push the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 2]

AYES

Coyle, Neil	Ruane, Chris
Doughty, Stephen	Turner, Karl
Foxcroft, Vicky	
Monaghan, Carol	Whitford, Dr Philippa

NOES

Bowie, Andrew	Graham, Luke
Churchill, Jo	Green, Chris
Double, Steve	Johnson, Joseph
Ford, Vicky	Morris, David
Garnier, Mark	Murray, Mrs Sheryll

Question accordingly negatived.

Clause 12 ordered to stand part of the Bill.

Schedule 1 agreed to.

Clauses 13 to 16 ordered to stand part of the Bill.

Clause 17

Training, qualifications and medical fitness

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

10.15 am

Dr Whitford: On the matter of informed consent, I highlight the written evidence submitted to us around what will be defined as informed consent and the possible need to explain complex issues and whether there would be potential for exposing technical information, which, under the US's ITAR—International Traffic in Arms Regulations—agreement, would be a problem. That is not particularly something I want to bring forward, but we have received a written submission on informed consent.

Joseph Johnson: Informed consent is an important part of the Bill. We will be developing detailed regulations on informed consent, including the information that operators must provide to individuals before they sign consent forms.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 18 ordered to stand part of the Bill.

Schedule 3 agreed to.

Clauses 19 to 21 ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 22

Security regulations

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

Stephen Doughty: I want to ask the Minister a few questions regarding the clause. I apologise if they have been covered already in other parts of the debate.

Clearly, the security of space for our operations is crucial. These activities will be of significant interest to terrorist organisations or others who would wish to cause harm. This is a problem shared not only in this country but across Europe and the world. Currently, we have sensitive information-sharing systems with the Five Eyes countries and our European neighbours. Given the context of Brexit and the absence of guarantees on the existence of a security treaty and so on—these are issues we have covered at great length in the Home Affairs Committee—will the Minister discuss the consideration given to sharing information with our European partners, in particular regarding the safety and security of operations and those who would wish to target them? On the one hand, any new technology or operation could lead us towards a cautious and very secure approach, but there may also be some issues, whether in relation to the cyber or physical aspects of these operations, such as using locations that have not traditionally been used before for civil aviation or other aerospace activities.

We need to take every precaution necessary, particularly with regard to the increasing threat from not only terrorist organisations and non-state actors, but Russia and other countries that would seek to carry out cyber-attacks—North Korea, for example. Many allegations have been made about attacks on other parts of the UK's infrastructure, including the NHS, and I see no reason why they would not choose to attack such a high-profile area as space activity.

Will the Minister say a little about how we will ensure the most thorough sharing of information? Will he also give us some guarantees? For example, does he believe

that a security treaty will be needed with our European neighbours to ensure that data on individuals can be shared adequately enough to deal with those concerns?

Joseph Johnson: National security and the security of spaceports is, indeed, a vital key element of the Bill. The Bill contains measures to secure against unauthorised access to and interference with space craft, spaceports and any associated infrastructure. It also enables the Secretary of State and regulators to take action where necessary in the interests of national security. The hon. Gentleman will be interested to know that the Bill extends existing civil aviation security powers to regulate spaceplanes and spaceports and introduces broadly similar arrangements for operations to launch objects into orbit, but tailors them to the sensitive nature of satellites and reflects the fact that vertical operations will not be manned.

As with aviation security, the Government will work closely with key partners in Europe and around the world to ensure that security remains paramount in the development of the Bill and the industry. We will continue to work with international partners in all appropriate forums to review and, if necessary, to develop and strengthen measures to ensure that transport generally, and in this case the space flight sector, is cyber-secure.

Stephen Doughty: Will the Minister be specific on the importance of having legal agreements in place for the sharing of relevant information on the matter—the importance, for example, of a security treaty of some sort, in particular with our European partners who are not covered by the Five Eyes agreements? Does he agree that that is crucial?

Joseph Johnson: Should we identify a need for additional legislation, the Bill provides us with the power to adopt appropriate regulatory measures and the ability to issue directions, where necessary and proportionate, to specific entities.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Schedule 5 agreed to.

Clause 23

Spaceport byelaws

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

Stephen Doughty: Will the Minister say a bit about the measures the Government plan to put in place to deal with drones and unmanned aerial vehicles, particularly in relation to their operation around spaceports? There are substantial restrictions on their operation around civil aviation activities in the UK, but a wide range of drones can be commercially purchased and many operators are unaware of the consequences of using them, near to not only airspace but other activities. Will he comment on that, given the particularly sensitive nature of space flight activities and the risk that could be caused by, for example, an incursion into the space around a launch or training activities?

The clause crucially mentions road traffic enactments and the parking of vehicles. We know of terrorist organisations that have attempted to park vehicles near UK airports in the past and it is crucial to retain the physical security around those sites. Given the ability to launch and remotely control drones from great distances, what thought has been given to whether any additional restrictions will be needed or whether the existing regulations for the use of drones will apply in byelaws for space flight operation centres?

Joseph Johnson: The clause enables the Secretary of State to make security-related regulations and to provide guidance on how they may be complied with. The hon. Gentleman asked specifically about drones. He might be aware that the Government announced at the end of November that it is their intention to introduce drone legislation in the spring. The Government will be publishing a draft drone Bill, which will look to extend police powers to extend drone misuse and to mandate the use of safety applications in the UK. We will also be looking at an amendment to the air navigation order to introduce legislation and leisure pilot tests. I hope that addresses his concerns.

Stephen Doughty: Is it therefore the Minister's intention that when that legislation comes forward it will specifically look at, and make it clear that it applies to, operations around spaceports and space activities? Further, will it be made clear that it concerns not only drones, but—although we are not largely talking here about manned space flight—the use of laser pointers and so on, which we know is a regular problem around airports and which might impede the operation of staff working at those sites or perhaps blind technical equipment being used for space launch activities? Will it be clear that the new legislation applies equally to spaceport activities?

Joseph Johnson: The hon. Gentleman will be interested to know that we will be introducing draft legislation. Should he detect any shortcoming in its application and should he continue to have concerns about whether the spaceport and spaceflight activity enabled by the Bill would have risks posed to it by drone activity, there will be plenty of opportunities in the development of that legislation for Members to point that out to Government.

Neil Coyle (Bermondsey and Old Southwark) (Lab): When will the draft legislation come forward? Given that the police have indicated they do not have the resources to investigate crimes such as shop lifting, bike thefts and mobile phone thefts, will it include resources to ensure that the police can adequately deliver those new responsibilities?

Joseph Johnson: Sorry, I did not catch the last bit of what you said.

Stephen Doughty: Will the draft legislation also identify new resources to ensure that this responsibility of the police, as well as others, can be adequately enforced?

Joseph Johnson: On the timing, we announced at the end of November that we would introduce the draft legislation in the spring. Spring is slightly movable. We

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are not quite in spring, I would say, in the middle of January. Later this year—later on this spring—we will bring forward that legislation. The hon. Gentleman will obviously want us to get the legislation right. We are working carefully in the Department to ensure that it is fit for purpose and covers all the situations that he has rightly been bringing to the attention of the Committee.

Stephen Doughty: I want to ask the Minister one further question and would appreciate his indulgence. He refers to the enforcement of the byelaws by a constable. Does he expect, for example, that the responsibilities around any spaceport enforcement of byelaws will be down to the local and geographical police constabulary, or does he expect that the responsibility will be undertaken by one of the non-geographical forces, such as British Transport Police or the MOD police or the Civil Nuclear Constabulary?

The only reason I ask is because, as is often the case and as I have experienced in my own constituency, when there are major national sites of interest—for example, I have the National Assembly and some other major locations of national significance in my area—there is a tendency, given the additional security requirements around those locations, sometimes to divert resources from local policing activities.

Given the existing strains on police forces, community policing and so on, I am a little concerned in that we all want those byelaws to be enforced and security to be absolutely maintained. For example, will consideration be given to additional resources for a police force where a spaceport is located and licensed to ensure that it can cope with those responsibilities and carry them out without being diverted from day to day crime fighting and other police activities?

10.30 am

The Chair: Order. The way in which the Committee is being carried out is completely in order. The Opposition are being very kind to the Minister in not interrupting to him while he is speaking, but his inspiration sometimes takes a little bit longer to come—it might be that interventions are easier for the Minister than the way we are doing it. *[Interruption.]* I see it is now working perfectly well.

Joseph Johnson: I am quite happy either way, Mr Bone.

Clause 27 enables the Secretary of State to issue directions in relation to the security of spaceflight activities and national security. Clause 24 provides for a licensee to request further specific advice from regulators or the Secretary of State about compliance with security requirements of a particular activity, service, site, facility or other matter. The byelaw powers are modelled on airport byelaws, and they would be locally policed and locally resourced.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clauses 24 to 27 accordingly ordered to stand part of the Bill.

Clause 28

POWER TO GIVE DIRECTIONS: INTERNATIONAL OBLIGATIONS OF THE UK

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

Stephen Doughty: Significant concern has been expressed about the future participation of the UK in various space industry international obligations, particularly European obligations. Perhaps the Minister could say a little bit about that—I will go on at length here so he can get some inspiration. Perhaps he could also talk about what assessment has been made of the impacts of leaving the European Union on our participation in, for example, Copernicus, Galileo, Egnos, GovSatCom, Iris, and in Space Situational Awareness and Space Surveillance and Tracking.

For those unfamiliar with those, Copernicus deals with earth observation missions, Galileo and Egnos with navigation—the European equivalent to GPS in some respects—GovSatCom deals with communications, and Iris deals with air traffic management, which we discussed along with aspects of air safety regulations in the last debate. Space Situational Awareness and Space Surveillance and Tracking deal with space debris. Those issues to not come up on a day-to-day basis but, given the cross-border nature of operations, it is crucial that we continue co-operating with our European neighbours, in particular on space debris, given the likely trajectories of launches from the UK and the likely descent paths of items falling from launches and so on. Those things are designed and planned in such a way as to avoid the descent of dangerous materials, but given the increasing number of launches and the increasing number of vehicles being launched into space, and with technology going up through space launch methods, getting that stuff right is obviously important.

We do not want to find ourselves getting into a dispute with our European neighbours after something falls off something we have launched. That is why international agreements on space activities are so crucial, particularly with our European neighbours. Will the Minister say something about the assessment that has been made of our existing international obligations and obligations that we could be in the process of entering into if we stay in the European Union, and their implications?

Joseph Johnson: The Government recognise the enormous benefits of European collaboration in space, and indeed in research and innovation generally. We published a science and innovation discussion paper as well as an external security discussion paper in September 2017 that set out the Government's clear wish to discuss options for future arrangements in the EU space programmes, including Galileo, Copernicus, Agnos and others. The decision that concluded phase 1 of the exit negotiations in December provides certainty that UK businesses can continue to bid for and win contracts to build, operate and help develop the EU space programme, which we have played a huge part in over the years.

The Government continue to invest in the success of the UK space sector. We recently invested more than £100 million in new satellite test facilities at Harwell

and manufacture and test facilities for rocket engines at Westcott in Buckinghamshire. As the hon. Gentleman knows, that is in addition to the substantial UK investment in the European Space Agency, which is a non-EU body, of around £300 million per year.

Stephen Doughty: I thank the Minister for his answer on some of those agencies. Again, I have a particular interest in this as declared in the Register of Members' Financial Interests. Airbus Defence and Space is in the next door constituency and a number of my constituents work there. I know they and many other members of UK space bodies have concerns about future participation in these agencies.

I welcome what the Minister said on the principles with respect to the agencies, but he did not mention specifically the more technical space debris agencies and other agencies. Rather than detain him now, could he write to the Committee and outline how he sees our international obligations functioning under all of the agencies I mentioned?

Joseph Johnson: I am happy to provide further details about our common approach to space debris, if that would be helpful, and undertake to do so.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clauses 29 to 31 ordered to stand part of the Bill.

Clause 32

Power to authorise entry etc in emergencies

Karl Turner: I beg to move amendment 19, in clause 32, page 23, line 31, at end insert—

'(4A) An enforcement authorisation must be referred to a justice of the peace for evaluation within 48 hours, following the 48 hour period under subsection (7) in which the enforcement authorisation remains in force."

This amendment provides that an urgent enforcement authorisation must be referred to a justice of the peace for evaluation within 48 hours, following the 48-hour period under Clause 32(7) of the Bill, during which the enforcement authorisation remains in force.

The amendment provides that an urgent enforcement authorisation must be referred to a justice of the peace for evaluation within 48 hours following the 48-hour period under subsection (7), during which the enforcement authorisation remains in force. The amendment aims to clear up any ambiguity surrounding clauses 31 and 32, which grant warrants authorising entry or direct action and powers to authorise entry in emergencies.

Clause 32(2) permits a named person to do anything necessary for protecting national security, securing compliance with international obligations or protecting health and safety. My colleagues in the other place raised concerns about emergency warrants and such vague wording. The power conferred by clause 32 is very extensive and broad. It contains no thorough judicial oversight. The Minister is well aware that the House of Commons Science and Technology Committee also expressed concerns about this aspect of the Bill, which was obviously mentioned in detail in the other place.

We welcome the fact that the Government reduced the authorisation period from one month to 48 hours, which limits the Secretary of State's power to a degree. However, we still have concerns that such significant and wide-ranging powers will be exercisable without anticipatory or rapid post hoc judicial involvement.

Currently, there is not enough in the Bill to check whether the powers granted under clause 32 will be appropriately or proportionately used by the authorised person. The Minister in the other place stated that the amendment would "impose unhelpful bureaucracy". We believe that judicial oversight of emergency warrants is crucial to ensure that such excessive powers are not abused, and we do not believe that we are asking for anything unreasonable. Having checks in place to ensure that this extensive power is not misused will improve the Bill. It is not, as stated by the Minister in the other place, "unhelpful bureaucracy". I hope the Minister can give assurances that the Government are listening to those concerns and will take them on board.

Dr Whitford: I rise to support the amendment. Clause 31 refers to the seeking of warrants from justices of the peace, where there is time to do so. Clearly, there will be situations where that is not reasonable and therefore we accept that there is a need to allow emergency entry—48 hours should be sufficient to allow that warrant to be reviewed by a justice of the peace. We welcome that the Government reduced emergency entry from a month to 48 hours, but it is perfectly reasonable that it should be looked at by a justice of the peace within two days.

Joseph Johnson: I thank the hon. Member for Kingston upon Hull East and for Central Ayrshire for raising the issue of emergency powers. The clause confers on the Secretary of State the power to grant an enforcement authorisation to carry out any specified action in the most urgent cases, such as a serious risk to national security, compliance with our international obligations or people's health and safety. The amendment tabled by the hon. Gentleman would seek to require that such an enforcement authorisation be evaluated by a justice of the peace within 48 hours of the 48 hours that the authorisation has been in force.

The Government have listened carefully at all stages of the discussion of the provision and addressed concerns before the Bill was brought to the House. Before the Bill's introduction, the Science and Technology Committee raised concerns about the length of time for which an enforcement authorisation would remain in place. In response to that helpful intervention, we reduced the time for which an enforcement authorisation can remain in place from one month to 48 hours.

The Opposition in the other place attempted to introduce amendments similar to that tabled by the hon. Gentleman. The amendments are not clear on the purpose that a post hoc evaluation by a justice of the peace would serve—the order would have already been spent and the specified action taken. It is also not clear what is expected to follow from any such evaluation. However, the Government have reflected further on the amendments and the intentions underpinning them. Officials have carried out extensive discussions with colleagues across Whitehall, including in the Ministry of Justice, the chief magistrate's office and the Home Office, which is responsible for the powers of entry gateway process. None of the discussions resulted in the suggestion that the power

[Joseph Johnson]

should be amended as the amendment proposes. An important reason for that is that there is no known precedent of a justice of the peace conducting an evaluation of an emergency power once it has been exercised.

Let me reassure hon. Members that there are adequate safeguards in the Bill with respect to the exercise of this significant power. Such an authorisation can be granted only to a named person who the Secretary of State is satisfied is suitably qualified to carry out the necessary action. Each time the power is used, the authorisation must be in writing, must specify the action required and will remain in force for only 48 hours from the time it is granted.

In response to concerns previously raised about the exercise of this power without sanction by an independent judicial authority, it is important to note that the decision of the Secretary of State to issue an enforcement authorisation could be challenged by judicial review. I would also point out that this power is more conservative and requires more stringent authorisation than other comparable powers of entry, such as those of nuclear inspectors or health and safety inspectors who are provided with a standing authorisation and may act at their discretion. The power would be used only in the most serious and urgent cases, but it is necessary to ensure that those involved in spaceflight activities and third parties are adequately protected should such situations arise.

10.45 am

Mark Garnier (Wyre Forest) (Con): The Minister is being very helpful. One of the interesting points that lies behind some of the concerns is about who advises the Secretary of State that the intervention needs to be made in the first place. Will the Minister give a little more flavour of the process whereby advice is given that leads to an intervention order? That may give some comfort to the Opposition.

Joseph Johnson: The enforcement authorisations would be a last resort where the regulatory bodies in question felt that it was absolutely imperative to have one in the interests of our national security, or for the pursuit of our international obligations, or the health and safety of individuals in and around the spaceport or elsewhere in the UK. It is very much a power of last resort. Given the nature of the activities being undertaken at spaceports, everyone should be able to see the need for such provisions.

Karl Turner: I hear what the Minister says, but he seems to be saying that, because there is no precedent for a justice of the peace to review such warrants, it is not necessary. He also said that judicial review is available, but he must appreciate that the threshold to succeed in judicial review is very high and that it is extremely costly to the party bringing the proceeding. Frankly, he has not gone anywhere near far enough, and for that reason I am pressing the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 3]

AYES

Coyle, Neil	Ruane, Chris
Doughty, Stephen	Turner, Karl
Foxcroft, Vicky	Whitford, Dr Philippa
Monaghan, Carol	

NOES

Bowie, Andrew	Graham, Luke
Churchill, Jo	Green, Chris
Double, Steve	Johnson, Joseph
Ford, Vicky	Morris, David
Garnier, Mark	Murray, Mrs Sheryll

Question accordingly negatived.

Clause 32 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Jo Churchill.)*

10.50 am

Adjourned till this day at Two o'clock.