PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SPACE INDUSTRY BILL [*LORDS*]

Second Sitting

Tuesday 23 January 2018

(Afternoon)

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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

(Afternoon)

[Mr Adrian Bailey *in the Chair*]

Space Industry Bill [*Lords*]

2 pm

The Chair: We resume line-by-line consideration of the Space Industry Bill. We are sitting in public and the proceedings are being broadcast. Before we begin, will everyone ensure that all electronic devices are turned off or switched to silent mode? Teas and coffees are not allowed during sittings.

Clause 33

Liability of operator for injury or damage etc

Karl Turner (Kingston upon Hull East) (Lab): I beg to move amendment 20, in clause 33, page 24, line 2, leave out subsection (1).

This amendment relates to situations where the operator has no liability in order that those living around the spaceports have adequate powers to protect themselves from noise and nuisance.

It is a pleasure to serve under your chairmanship, Mr Bailey. The amendment relates to situations where the operator has no liability, and seeks to ensure that people living around spaceports have adequate powers to protect themselves from noise nuisance. The Bill originally contained no proper provisions to protect people living close to spaceports or under potential flightpaths from noise. The word "noise" was not even included in the Bill. It now is, but only once. Again, I pay tribute to my colleagues in the other place, particularly my Front-Bench colleagues, who managed to secure that vital concession.

I welcome the Government's insertion of an assurance that licences can include a condition that an assessment must be done of the noise and emissions that activity will cause, and of the impact on local communities. To say that aircraft noise is rather loud would be an understatement. I can imagine the noise and nuisance if we ended up regularly launching rockets in the UK. Will the Minister therefore give us an assurance that he will look closely at what powers people who live around potential UK spaceports have to protect themselves from such noise nuisance?

The Minister of State, Department for Transport (Joseph Johnson): I appreciate that there are concerns about the possibility that spaceflight activities may have an adverse effect on local people. Clause 33 is designed to balance the right to quiet enjoyment of land against the right to carry out a commercial activity, to ensure that there is only minimal encroachment of rights where the operator acts in accordance with the law.

Subsection 1 is replicated from section 76(1) of the Civil Aviation Act 1982, which provides a similar protection for aircraft operators. Amendment 20 would remove the protection for spaceflight operators. However, the Government believe that subsection (1) is appropriate to enable spaceflight operators to carry out activities from the UK. Such a provision is necessary to prevent an operator who acts lawfully from being sued by a third party who considers that his or her right to quiet enjoyment of land is being affected.

Where carrier aircraft are used as part of spaceflight activities, local people will continue to have no such claims against aircraft operators because of the protection in section 76 of the Civil Aviation Act, so the amendment would have little practical effect on spaceports that are adapted aerodromes, such as the potential spaceports at Newquay and Prestwick. However, it should be stressed that such a protection does not apply if an operator does not comply substantially with all the requirements imposed on them.

The protection from claims of nuisance and trespass does not prevent anyone who suffers injury or damage arising from spaceflight activities from bringing a claim against an operator under the strict liability course of action provided for in subsection (2). With that assurance, I ask the hon. Gentleman to consider withdrawing his amendment.

Karl Turner: I am grateful to the Minister for those assurances. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Philippa Whitford (Central Ayrshire) (SNP): I beg to move amendment 7, in clause 33, page 24, line 31, leave out "may" and insert "must".

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

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

Amendment 8, in clause 33, page 24, line 36, at end insert—

"(5A) The limit on the amount of the licensee's liability as referenced in subsection (5) must not exceed €60 million for each launch."

Amendment 9, in clause 33, page 24, line 36, at end insert—

"(5A) Regulations under subsection (5) must provide for—

(a) the maximum limit on the amount of a particular licensee's liability to be based on each launch undertaken by the operator;

(b) the maximum limit on the amount of a licensee's liability to vary depending on the classification type of each launch.

(5B) The classification type for each launch as in subsection (5A) is defined as the level of risk attached to each launch and will be determined by the regulator in accordance with the regulations."

This amendment allows for a mandatory cap for the licensee's liability to be based on each launch rather than per satellite and would ensure the cap on the amount of a licensee's liability can vary depending on the type of launch depending on its risk classification.

Amendment 10, in clause 33, page 24, line 37, leave out "may" and insert "must".

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

Dr Whitford: This group of amendments comes back to the issue of liability for operators and, in particular, the need to set some form of cap on their liabilities so that they can get insurance.

Amendment 7 would change "may" to "must" in subsection 5. As I said earlier, that is not to set the limit, but to raise the principle of one. Later, as we will see when we come to Government amendments to clause 34, the Government themselves change "may" to "must", implying that there is a cap that they are paying above. Similarly, in clause 33(6) we would also change "may" to "must".

It needs to be stated that the maximum limit would not go above the €60 million that satellite launchers currently have to indemnify elsewhere. However, what has been described in the Bill and in the explanatory notes is that the launch activities carried out in the UK may be quite different, as the Minister just talked about with regard to noise nuisance. In horizontal take-off, we are talking about an aeroplane carrying a small rocket that will launch cube satellites and micro-satellites such as Unicorn.

As I said earlier, the current limit of €60 million per satellite, and therefore the launch of micro-satellites, would be untenable. Therefore, we need to consider in the consultation making the amount per launch, or per cluster, as opposed simply to per satellite. The Government need to reassure us that they accept the principle of a limited liability and of a liability cap.

There is also the discussion in the paper of describing launches as having a green or amber risk—obviously, those at red risk would not get a licence. Therefore, it could be done by class as opposed to launch by launch. Horizontal take-off vehicles launching cube satellites and micro-satellites might be given a different classification than a vertical take-off vehicle carrying large satellites, as has been the case elsewhere.

This cluster of amendments simply intends to bring back this basic principle that the industry has raised with me, and I am sure with other Members. It has also submitted in writing again that the failure to commit to setting a liability cap whereby industry indemnifies the Government up to a certain level means that companies will not manage to get insurance and they simply will not launch from the UK.

Carol Monaghan (Glasgow North West) (SNP): To add to the comments of my hon. Friend, this issue could affect where future developments take place in the space industry. Jurisdictions such as Singapore do not require satellites—Glasgow has strength in satellites—to be built locally. However, other jurisdictions require satellites to be built in the local area or in the country.

If cube satellite businesses do not get a mandatory liability cap within this Bill, there is a danger that future development will be affected, and a danger that, when those businesses are looking to expand or develop satellites for future use, they will do so where they can get one. That would be where they can insure and launch satellites. It is absolutely crucial that we get this issue sorted at this stage.

Joseph Johnson: We discussed an operator's liability to indemnify the Government against claims from foreign states and their nationals in clause 35. In addition, clause 33 places a strict liability on the operator to compensate third parties in the UK who suffer injury or damage as a result of space flight activity. This is necessary because the Bill allows spaceflight activities to take place from the UK. The intention is to provide easy recourse to compensation for the uninvolved general public in the UK on the same basis as compensation available to foreign nationals.

Clause 33(5) provides a power to make regulations to limit an operator's liability arising out of spaceflight activities. As we have discussed, the Government intend to issue a call for evidence to consider whether such a cap is appropriate. The amendments seek to require the Government to make regulations that specify a cap on liability in an operator's licence based on the risk profile of the launch.

The proposal is to set an upper limit on that cap in secondary legislation of €60 million. That figure, as we have discussed, reflects the existing cap on an operator's liability to indemnify the Government in a licence for a standard mission issued under the Outer Space Act 1986, which was set following considerable experience of satellite licensing. There is no reason to believe that that is also an appropriate level at which to cap a launch vehicle operator's liability to third parties in the UK, since that activity is likely to be inherently more risky.

Creating inflexibility in legislation is also not helpful. The existing Government indemnity liability cap of €60 million for satellite operators is set by a policy decision and can be varied as appropriate—the figure is not laid down in the Outer Space Act for that reason. The UK Space Agency is considering its approach to risk management of satellite licensing, including the implications for liabilities and insurance requirements. That flexibility is vital if regulation is to keep up with a rapidly changing space sector. The UK Space Agency intends to issue further guidance on that new approach later this year.

As that demonstrates, legislative flexibility is better for both industry and the Government, because it allows the regulator to determine case by case whether to cap liability and the level of any cap. That should encourage operators to design their missions to reduce injury and damage as much as possible, leading to safer launches and reduced costs for them.

Carol Monaghan: Will the Minister give way?

Joseph Johnson: Let me turn to some of the hon. Lady's specific points before she intervenes—I may anticipate what she is about to ask.

A mandatory cap on liability and mandatory Government compensation embedded in primary legislation could potentially breach state aid rules. That could also cause difficulties in respect of future trading rules applying to the UK, although those are of course as yet unknown. For that reason, it is important to retain the flexibility to deal with the issue by way of secondary legislation. In that way, this and future Governments will have a power to introduce and vary a cap to ensure that it is in line with our legal obligations. It can also be varied in the light of changes in the market or in our trading commitments.

The amendment to clause 33(4)(a) means that the Government—the hon. Member for Central Ayrshire commented on this—must compensate a claimant only in the event of a cap. That amendment does not mean that there is a cap on the face of the Bill.

Dr Whitford: As I said in my remarks, it is the principle a cap as opposed to the amount. I totally understand the need for consultation, because the type

[Dr Whitford]

of space industry being discussed is different from space industries elsewhere, where vertical rockets are launched. I am still not clear why the Government are unwilling to commit to a cap in principle when that is what the industry is crying out for.

Joseph Johnson: I will repeat what I said before. As soon as the Bill receives Royal Assent we will start the process of a call for evidence to determine whether there is a need for a cap and the level at which any such cap might be set.

2.15 pm

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 4]

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.

Dr Whitford: I beg to move amendment 11, in clause 33, page 24, line 39, at end insert—

"(7) Within 6 months of this Act coming into force the Secretary of State must lay a report before Parliament setting out divisions of responsibility and the level of liability for parties' spaceflight activities, including—

(a) the Spaceport;

(b) the launch operator; and

(c) the satellite operator."

This amendment places a requirement on the Secretary of State to publish clear guidelines with regards to responsibility and liability for parties involved in spaceflight activities.

This is a probing amendment to highlight the fact that in the past the space industry was very much state-driven, state-paid-for and state-covered, and now we are moving to a commercial situation where a spaceport, a launch company and a satellite company will be totally different entities. Therefore, I seek clarification in the consultation of exactly where the handover of liability is from one to the other and what responsibilities they have. We would not want to see people arguing at the edges and bystanders, other companies or satellite companies ending up not being compensated for a mission that failed.

Joseph Johnson: I thank the hon. Lady for raising the important matter of the respective responsibilities and liabilities that spaceports, launch operators and operators of satellites will have. The full scope of a licensee's responsibilities will be set out in the Bill, in regulations made under the Bill and in the terms of specific licences granted by the regulator. In broad terms, it is envisaged that the Bill will enable the regulator to license four types of activity initially: operation of a spaceport, spaceflight activities involving launch of a spacecraft, operation of a satellite and provision of range control services.

The Bill sets out certain high-level responsibilities and obligations on licensees. Most obligations are on persons carrying out spaceflight activities. I shall refer to them as spaceflight operators for convenience, although that term is not used in the Bill. Those include persons carrying out launch and operating a satellite. It is considered that activities of the spaceflight operator are the most likely to cause injury or damage to third parties.

In the case of spaceflight operators, clause 9 imposes obligations to assess the risk to health and safety posed by the spaceflight activity, to comply with the risk assessment requirements and to take all reasonable steps to reduce risks to the general public so that they are as low as reasonably practicable.

Under clause 16, the spaceflight operator must not allow individuals to take part in a spaceflight activity unless they meet criteria prescribed in regulations and have signed a consent form signifying that they understand and accept the risks of taking part in the spaceflight activity. Under clause 17, the spaceflight operator must not allow unqualified individuals to take part in or otherwise be engaged with the spaceflight activity.

Clause 33 places a strict liability on a spaceflight operator to provide the uninvolved general public with a straightforward remedy for compensation for injury or damage caused by their spaceflight activities. This strict liability would apply to any injury or damage caused in the UK or its territorial waters, and to an aircraft in flight or persons and property on board such aircraft. It applies to damage that is caused by a craft or space object being used for spaceflight activities.

Spaceflight operators also have an obligation under clause 35 to indemnify the Government for any claims brought against the Government for loss or damage caused by their spaceflight activities. Other bodies that may be carrying out functions on behalf of the Government also benefit from the indemnity.

On the responsibilities and liabilities of spaceport operators, clause 10 requires that applicants for a spaceport licence must take all reasonable steps to ensure that risks to public safety of operating the spaceport are as low as reasonably practicable. In addition, the applicant will need to fulfil any criteria and requirements set out in regulations. In the case of providers of range control services, they will be governed by the provisions of clauses 5, 6 and 7 and regulations made under those clauses.

In addition to the Bill, further detailed obligations and responsibilities for all types of licence holders will be prescribed in regulations: for example, safety requirements under clause 18 and security requirements under clause 21. Those regulations will be supplemented by detailed guidance.

The regulations will set out licensing and ongoing requirements and any oversight of operations to ensure that spaceflight activities and spaceports are operated safety. In addition to general responsibilities and liabilities imposed by the Bill, and regulations made under it, the terms of individual licences will specify the particular activities authorised under that licence and the responsibilities that go with them. Individual licences will also be subject to licence conditions tailored to their application, examples of which are set out in schedule 1.

I hope I have reassured the hon. Lady that the Bill, combined with the regulations to be made under it and the terms of individual licences, will provide the necessary clarity on the responsibilities and liabilities that come with being a licence holder under the Bill. The Government intend to consult publicly an all initial draft statutory instruments and statutory guidance. All draft regulations will be accompanied by a full explanation of their intent. Furthermore, reflecting the importance that the Government place on consultation, we have amended the Bill to impose a statutory duty to carry out public consultation before making any regulations under the affirmative resolution procedure. I therefore ask her to withdraw her amendment.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): As ever, it is a pleasure to serve under your chairmanship, Mr Bailey. I want to underline the point that has been made as it applies well to what we are talking about—the wording that relates to liabilities, given their legal implications. It also applies to clause 68.

The Minister will be aware that UKspace, the space trade association, has raised concerns about the terminology used, which in this circumstance and in other parts of the Bill is not necessarily consistent with that used in the industry. To give an example of the confusion, the industry uses "launch systems" or "launch services" to refer to the launching of satellites, whereas the Bill appears to use "spacecraft" for that. The industry uses the word "spacecraft" to refer to man-made objects that are to be delivered into space—also known as "the payload."

I do not want to get into a big semantic debate but, particularly when we are talking about where liabilities lie—whether with a launch operator or a satellite operator, or with a spacecraft, a launch system or launch services—I want an assurance from the Minister that there will be clear guidance, understood by the industry, the public and the courts when it comes to interpreting the Bill's provisions.

Joseph Johnson: I am happy to repeat the assurance I gave a second ago. We will consult publicly on all the initial draft statutory instruments and the statutory guidance that will give effect to the provisions. I hope that that process will address any remaining areas of uncertainty about terminology, to which the hon. Gentleman refers.

Dr Whitford: I look forward to seeing the regulations. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 33 ordered to stand part of the Bill.

Clause 34

Power of Secretary of State to indemnify

Joseph Johnson: I beg to move amendment 1, in clause 34, page 25, line 15, leave out "may" and insert "must".

This amendment concerns the case where a person is caused injury or damage by spaceflight activities carried out by a licensee whose liability to that person is capped by regulations under clause 33(5). It converts the Secretary of State's power to indemnify that person in respect of any shortfall into a duty to do so.

The Chair: With this it will be convenient to discuss Government amendments 2 to 4.

Joseph Johnson: The Bill is designed to ensure that spaceflight activity is as safe as possible, and risks to third parties are minimised as far as possible. However, no activity is entirely without risk and we have to account for that. If injury or damage arise, it is right that affected third parties should have easy recourse to compensation. That policy does not change if an operator has a capped liability.

As we discussed, clause 33(5) provides a power to make regulations that enable a regulator to specify a cap on an operator's liability for injury or damage arising out of their spaceflight activities to prescribed persons, or in prescribed circumstances. Those persons and circumstances would be set out in regulations, but we envisage that a cap would be on an operator's liability to the uninvolved general public who suffer injury or damage as a result of spaceflight activities. As that liability can be capped, clause 34(3), as drafted, provides the Secretary of State with a power to indemnify a claimant in situations where injury or damage caused by spaceflight activities exceeds an apparatus capped liability amount.

Having listened carefully to the debate in the other place, the Government agree that it is right to go further, and the amendments turn the power under clause 34(3) into a duty, and ensure that the Government must pay the remaining compensation above that amount. I am sure that that will be welcomed by hon. Members, as it reflects the desire on both sides of the House to ensure that third parties will rightly never miss out.

Amendment 1 agreed to.

Amendments made: 2, in clause 34, page 25, line 22, after first "or" insert "duty under subsection".

This amendment is consequential on amendment 1.

Amendment 3, in clause 34, page 25, line 26, after "may" insert "or must".

This amendment is consequential on amendment 1.

Amendment 4, in clause 34, page 25, line 29, after "or" insert "duty under subsection".—*(Joseph Johnson.)*

This amendment is consequential on amendment 1.

Clause 34, as amended, ordered to stand part of the Bill.

Clauses 35 to 37 ordered to stand part of the Bill.

Clause 38

Powers to obtain rights over land

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

2.30 pm

Dr Whitford: I really just want to speak to clause 38(4), and the rights created under that. Again, this refers to the devolved nations, which currently have four of the five sites being discussed, although obviously future sites may well be scattered right across the UK. We are looking, again, for some consultation in the event of rights being taken over land that would be with the devolved Government. I have an amendment on that later, but I wanted to refer to it during debate on the clause itself.

Joseph Johnson: I can set out some context for the hon. Lady that might clarify the issue. Some concern was expressed in the other place about the provisions, but I assure the Committee that the Government are taking a responsible and balanced approach. We have sought to address those concerns by amending the Bill.

In clause 38 in particular, we made it clear on the face of the Bill that an order will be made only when the Secretary of State considers it appropriate, rather than when it is expedient, as the Bill said originally. Powers are restricted to what is required and proportionate for securing safe space flight operations. There are no powers in the Bill for a spaceport licence holder, launch operator or range control service provider to purchase land compulsorily.

The clause allows for the creation of orders granting rights over land. Such orders may be necessary to ensure that utilities and other supporting infrastructure can be installed and maintained—for radar or surveillance, for example. Space flight from the UK will be conducted on a commercial basis, so we expect operators to negotiate access in the vast majority of cases. Such an order, therefore, would be created only as a last resort, where a negotiation with the landowner had failed to produce a mutually agreeable outcome. Schedule 6 sets out further provision for such circumstances, including how notice for such orders should be given and how proposed orders can be objected to.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Clauses 39 and 40 ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 41 ordered to stand part of the Bill.

Clause 42

Challenges to and commencement of orders

Dr Whitford: I beg to move amendment 12, in clause 42, page 31, line 12, at end insert—

'(4) An order under section 38 or 40 cannot be made in relation to a spaceport or prospective spaceport without the consent of—

(a) the Scottish Ministers, in relation to the use of land in Scotland;

(b) the Welsh Ministers, in relation to the use of land in Wales;

(c) the Northern Ireland devolved authority, in relation to the use of land in Northern Ireland.

(5) In this section, a "Northern Ireland devolved authority" means the First Minister and deputy First Minister acting jointly, a Northern Ireland Minister or a Northern Ireland department."

This amendment would ensure that consent of devolved administrations is sought prior to the Secretary of State exercising their powers under Clauses 38 and 40.

This is the formal amendment on the point that I made in relation to clause 38 about a requirement to consult on land enforcement orders with the devolved powers in Northern Ireland, Wales and Scotland.

Joseph Johnson: I thank the hon. Lady for tabling this amendment, allowing me again to address the subject of land powers, in the specific context of the devolved Administrations. I reassure her and other Committee members that there has been considerable engagement with the devolved Administrations as the provisions have been developed.

Officials have been engaging with the devolved Administrations since early 2014, when they met the Welsh and Scottish Governments to discuss ambitions to create a UK spaceport. Representatives from the devolved Administrations have since been invited to launch UK events across the country, bringing together many of those interested in becoming involved in the operations or supply chains of spaceports or space flight activities.

Alongside this general engagement, we have worked with Scotland, Wales and Northern Ireland at official level to ensure that the devolved Administrations are content with all provisions in the Bill. Specifically, on land powers, we have agreed an approach that the devolved Administrations have confirmed they are content with.

Before the introduction of the Bill, we discussed the land provisions with the Scottish Government, the Lands Tribunals for Scotland and Northern Ireland, and Registers of Scotland. We have since consulted the Scottish Civil Justice Council on the practical implications of orders under clauses 38 and 40. These organisations have confirmed that they are content with the implications for their processes and have not requested amendment to the current drafting of the clauses. Orders made on Welsh land would be subject to the same registration process as those in England, and any tribunals that were to be involved would be the same ones as for England.

The previous Minister of State for Transport spoke with the Scottish Government Minister for Transport to update him on the progress of the Bill and the proposed amendments ahead of Report in the other place. In addition, my officials continue to engage with the devolved Administrations of Wales, Scotland and Northern Ireland as the Bill makes its progress through the parliamentary process.

Going back to the clauses to which the hon. Lady's amendment refers, I should say that an opportunity for those in the devolved Administrations to raise any concerns about a specific order is provided in schedule 6. The schedule requires that notice of a proposal to make an order under clause 38 or a land order under clause 40 must be published in local newspapers and served on the local authority. However, we expect that spaceport or launch operators, or range control service providers, will work closely with local landowners and local authorities as they develop their plans for sites and launches.

We also expect that, rather than orders under clauses 38 and 40 being necessary, operators will negotiate with landowners for access to land or for restrictions on the use of land or water near a spaceport site. Representatives of the companies hoping to develop the first spaceports have confirmed that they have indeed been working closely with local landowners and local authorities as they progress their plans.

I should also emphasise that orders that may be made under clauses 38 and 40 are compatible with the existing body of planning legislation and will not restrict the ability of local planning authorities to take planning decisions. Should Ministers in the devolved Administrations wish to call in any planning decision relating to the development of a spaceport site, their right to do so will not be affected by any provision in this Bill.

I hope that the hon. Lady is reassured that the powers in clauses 38 and 40 will not impact on the ability of local planning authorities or Ministers in Scotland, Wales or Northern Ireland to take planning decisions as they would usually. I hope she is reassured that the devolved Administrations, as well as any persons served with a notice, will be able to object to the making of orders through the process set out in schedule 6. I therefore ask the hon. Lady to consider withdrawing amendment 12.

Dr Whitford: I thank the Minister for that detailed explanation. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 42 ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 43 ordered to stand part of the Bill.

Schedule 8 agreed to.

Clauses 44 and 45 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clauses 46 to 59 ordered to stand part of the Bill.

Schedule 10 agreed to.

Clauses 60 and 61 ordered to stand part of the Bill.

Schedule 11 agreed to.

Clauses 62 to 66 ordered to stand part of the Bill.

Schedule 12 agreed to.

Clause 67

REGULATIONS: GENERAL

Karl Turner: I beg to move amendment 21, in clause 67, page 43, line 40, leave out subsection (6) and insert—

'(6) A statutory instrument containing (whether alone or with other provision)—

(a) regulations under section 4(2),

(b) regulations under section 5(2),

(c) regulations under section 7(4),

(d) regulations under section 7(6),

(e) regulations under section 9,

(f) regulations under section 12(7),

(g) regulations under section 18,

(h) regulations under section 22,

(i) regulations under section 34(5),

(j) regulations under section 35(3)(a),

(k) regulations under section 58,

(l) regulations under section 64, or

(m) regulations that create offences,

is subject to the super-affirmative resolution procedure.

(6A) For the purposes of this Act the "super-affirmative procedure" is as follows.

(6B) The Minister must lay before Parliament—

(a) a draft resolution, and

(b) an explanatory document.

(6C) The explanatory document must—

(a) introduce and give reasons for the resolution,

(b) explain under which power or powers in this Act the provision contained in the resolution is made, and

(c) give a detailed explanation of provisions included in the resolution.

(6D) The Minister must have regard to—

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the draft resolution,

made during the 40-day period with regard to the draft resolution.

(6E) If, after the expiry of the 40-day period, the Minister wishes to make a resolution in the terms of the draft, he must lay before Parliament a statement—

(a) stating whether any representations were made under subsection (6D)(a), and

(b) if any representations were so made, giving details of them.

(6F) The Minister may after the laying of such a statement make a resolution in the terms of the draft if it is approved by a resolution of each House of Parliament.

(6G) However, a committee of either House charged with reporting on the draft resolution may, at any time after the laying of a statement under subsection (6E) and before the draft resolution is approved by that House under subsection (6F), recommend under this subsection that no further proceedings be taken in relation to the draft resolution.

(6H) Where a recommendation is made by a committee of either House under subsection (6G) in relation to a draft resolution, no proceedings may be taken in relation to the draft resolution in that House under subsection (6F) unless the recommendation is, in the same Session, rejected by resolution of that House.

(6I) If, after the expiry of the 40-day period, the Minister wishes to make a resolution consisting of a version of the draft resolution with material changes, he must lay before Parliament—

(a) a revised draft resolution, and

(b) a statement giving details of—

(i) any representations made under subsection (6D)(a), and

(ii) the revisions proposed.

(6J) The Minister may after laying a revised draft resolution and statement under subsection (6I) make a resolution in the terms of the revised draft if it is approved by a resolution of each House of Parliament.

(6K) However, a committee of either House charged with reporting on the revised draft resolution may, at any time after the revised draft resolution is laid under subsection (6I) and before it is approved by that House under subsection (6J), recommend under this subsection that no further proceedings be taken in relation to the revised draft resolution.

(6L) Where a recommendation is made by a committee of either House under subsection (6K) in relation to a revised draft resolution, no proceedings may be taken in relation to the revised draft resolution in that House under subsection (6J) unless the recommendation is, in the same Session, rejected by resolution of that House.

(6M) In this section the "40-day period" means the period of 40 days beginning with the day on which the draft resolution was laid before Parliament under subsection (6B)."

The amendment provides for the use of the super-affirmative procedure rather than, when applicable, the affirmative procedure for considering regulations and secondary legislation. The super-affirmative procedure provides that a Minister must lay a draft resolution and explanatory document before both Houses and take account of any representations.

The amendment provides for the use of the super-affirmative procedure rather than, when applicable, the affirmative procedure for considering regulations and secondary legislation. As we know, the super-affirmative procedure provides that a Minister must lay a draft order and an explanatory document before both Houses and take account of any representations.

I do not intend to speak for long to the amendment, because it was previously debated at some length in the other place. It is about parliamentary scrutiny. It aims

[Karl Turner]

to change the Bill so that a significant statutory instrument arising from the delegated powers consistently go through a super-affirmative procedure, which will mean that it is debated in both Houses, rather than the negative procedure, when it would automatically become law without proper parliamentary debate or scrutiny.

I will set out the case why such statutory instruments should be under the affirmative procedure each and every time they are brought forward. The Opposition have expressed great concern that the Government are attempting to evade proper parliamentary scrutiny on clause 67. Let me be clear that we support the Bill, but it is a skeleton Bill. It is already difficult to scrutinise properly in its current format. My colleagues in the other place raised the point that crucial regulations will not even be consulted on until next year, and will not come before Parliament for nearly two years at the very earliest.

I accept that we must consider rapid technological change and advances in the space industry—those points were made by the Minister in the other place—but how can we make sure that we get the proper legislative framework in place for the space industry, which is constantly developing? The Government and future Governments in years to come still need to be held to account, and Parliament needs to scrutinise legislation properly. I am sure that everyone in this Committee Room wants the United Kingdom's space industry to grow. However, that should not come at the expense of parliamentary scrutiny. Will the Minister assure us that he will consider the points raised and set out the Government's position for future statutory instruments under the Bill?

Dr Whitford: The amendment is, as the hon. Gentleman referred to, about the potential delay for the industry from considering regulations. I seek assurances from the Minister that the timescale of two years that seems to be being discussed is erroneous, because otherwise we will not be launching anything in 2020. That timescale seemed to be referred to in the House of Lords—the hon. Gentleman also referred to it—but it would kick the industry into the long grass again. This process started in 2014 and we are in 2018. There had been an aspiration to be ready to launch from the UK in 2020, if the vehicles are ready. There is an urgency and I seek reassurance that we are getting on with it.

Joseph Johnson: Hon. Members may be aware—my noble Friend mentioned this—that a similar amendment was tabled in the other place. The Government reflected on the concerns of noble Lords and amended the Bill to impose a statutory duty to carry out a public consultation before making any regulations under the affirmative resolution procedure. The Bill now includes a requirement for a report by the Secretary of State on the consultation to be laid before Parliament. As my noble Friend the Minister made clear in the other place, a public consultation would invite a response from all interested parties. Subsequent regulations that materially change the substance of the original regulations would also be subject to public consultation.

The amendment tabled by the hon. Member for Kingston upon Hull East goes much further than that by imposing the super-affirmative procedure on affirmative regulations. As I have said, the Government have listened and taken on board the concerns raised in the other place, and the Bill now ensures that there is the enhanced scrutiny of affirmative regulations. The amendment would lead to a duplication of effort.

I assure hon. Members that it is the Government's intention to continue to build on the open collaboration that has taken place throughout the development of this legislation—from publishing the Bill in draft, to the publication of policy scoping notes, to committing to formally consult on the draft regulations prior to laying them. As the hon. Member for Middlesbrough (Andy McDonald) noted on Second Reading, the Government have taken a very open attitude in developing this legislation and in engaging with hon. Members and noble Lords in the other place to ensure we have a successful Bill. We want that to continue as we go on to the next stages of secondary legislation, consultation on guidance and so forth.

The question from the hon. Member for Central Ayrshire on the timing of the laying of statutory instruments is a novel and complex challenge. I know she appreciates that that requires detailed policy development, building in parallel internal expertise to enable us to deliver an effective regulatory regime. There is a wealth of best practice in the industry and we need to work with stakeholders to identify how we can best design the regulatory framework and the subsequent legislation on the basis of being informed adequately by those discussions. I can confirm that it is the Government's intention to formally consult as soon as the draft statutory instruments are available.

I hope that that has assured hon. Members that the approach will continue as we develop secondary legislation, and that the hon. Gentleman will withdraw the amendment.

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

Amendment, by leave, withdrawn.

Clause 67 ordered to stand part of the Bill.

Clauses 68 to 71 ordered to stand part of the Bill.

New Clause 1

GRANT OF LICENCES: ASSESSMENTS OF ENVIRONMENTAL EFFECTS

"(1) This section applies to—

(a) a spaceport licence;

(b) an operator licence authorising launches of spacecraft or carrier aircraft.

(2) The regulator may not grant an application for a licence to which this section applies unless the applicant has submitted an assessment of environmental effects.

(3) In this section "assessment of environmental effects"—

(a) in relation to a spaceport licence, means an assessment of the effects that launches of spacecraft or carrier aircraft from the spaceport in question, or from launches of spacecraft from carrier aircraft launched from the spaceport, are expected to have on the environment;

(b) in relation to an operator licence authorising launches of spacecraft or carrier aircraft, means an assessment of the effects that those launches are expected to have on the environment.

(4) If or to the extent that the regulator directs, the requirement imposed by subsection (2) to submit an assessment of environmental effects may be met by submitting—

(a) an equivalent assessment prepared previously in compliance with a requirement imposed by or under another enactment, or

(b) an assessment of environmental effects prepared in connection with a previous application.

The regulator may make a direction under this subsection only if satisfied that there has been no material change of circumstances since the previous assessment was prepared.

(5) The regulator must take into account the assessment of environmental effects (including any assessment submitted as mentioned in subsection (4) in deciding—

(a) whether to grant a licence to which this section applies;

(b) what conditions should be attached to such a licence under section 12.

(6) The regulator must issue guidance about—

(a) the form, contents and level of detail of an assessment of environmental effects;

(b) the time for submitting an assessment of environmental effects;

(c) the circumstances in which the regulator will or may give a direction under subsection (4).

Guidance under paragraph (a) may specify matters that are to be dealt with in an assessment of environmental effects only if the regulator so requires in a particular case."—(*Joseph Johnson*.)

This new clause requires assessments of environmental effects to be carried out before the regulator can grant certain licences, and makes further provision about such assessments.

Brought up, read the First and Second time and added to the Bill.

New Clause 2

Potential impact of leaving the European Union on the United Kingdom's space industry

"(1) The Secretary of State must carry out an assessment of the potential impact that leaving the European Union will have on the United Kingdom's space industry.

(2) The assessment under subsection (1) must make reference to the following areas—

(a) membership of the European Space Agency;

(b) the impact of the UK's exit from the EU on research and development and access to funding, including Horizon 2020;

(c) the free movement to the UK from the EU of those who work in the space industry;

(d) the UK's participation in the Galileo and Copernicus programmes; and

(e) the impact of the UK leaving the Single Market on supply chains within the space industry. (3) The Secretary of State must lay a report of the assessment under subsection (1) before Parliament within one year of this Act passing, and once in each calendar year following."—(*Dr Philippa Whitford*.)

This new clause would ensure the Government prepares and publishes an impact assessment of the potential impact on the space industry as a result of the UK leaving the EU.

Brought up, and read the First time.

Dr Whitford: I beg to move, That the clause be read a Second time.

In light of the process of leaving the European Union, the clause seeks, as was referred to by hon. Members earlier, to consider the impact. We have looked at the impact assessments, particularly at the aerospace assessment, when we had the opportunity to view what are called the Brexit papers, and what we saw was a description of the aerospace industry and comments from the industry, but not the impact.

Although the European Space Agency is separate to the EU, it receives significant funding from it. With the new clause, therefore, we seek assurances that the UK will still be able to be part of the agency, to be active in it and, as the Minister said earlier, to be able to bid for contracts under Copernicus or Galileo for satellite work, in which the UK is a leading player. The clause simply calls for an assessment of the impact on the developing space industry of leaving the EU, to ensure that, as negotiations go forward, the Government set themselves to achieve the best deal for the space industry.

Joseph Johnson: As the hon. Lady knows, the UK has played a major part in developing the main EU space programmes, Galileo and Copernicus, which have supported the rapid growth of the UK space sector and contributed directly to our prosperity. The UK is recognised for its specialist capability in the area of earth observation, and has been especially involved in the development of the Galileo security modules and encryption, which are integral to a secure and resilient earth observation system. The Government recognise that, which is why the future partnership papers I referred to earlier, which were published in September 2017, set out that, given the unique nature of the space programmes' applications to security as well as to science and innovation, and the extent of the UK's involvement, the EU and the UK should discuss all options for future co-operation, including new arrangements subsequent to our departure from the European Union.

3 pm

We are working to ensure that we get the best deal with the EU to help support the sector's continued strong growth. The agreement that successfully concluded phase 1 of the exit negotiations in December 2017 makes clear that, as part of the financial settlement, the UK will remain part of the space programmes until at least the end of this EU budget period in 2020. That provides significant certainty to industry to enable it to continue to bid for and win contracts from the space programmes.

As the hon. Lady said, the European Space Agency is a non-EU organisation. We are a full member of it and have every intention of continuing to be so long after we leave the European Union, and we are contributing record sums to its budget.

Dr Whitford: Does the Minister therefore foresee the UK continuing to pay funds? If so, will they be paid directly to the ESA or via the EU? Obviously, the EU is a significant funder of the ESA.

Joseph Johnson: The European Space Agency delivers a number of programmes for the European Union, but we continue to be a member of the ESA in our own right and, as I said, we are contributing record amounts—more than €1.4 billion in the current budget period.

Neil Coyle (Bermondsey and Old Southwark) (Lab): For absolute clarity, is the Minister suggesting that payments via the EU could still be possible, in contrast with the Foreign Secretary's position on that matter?

Joseph Johnson: I am not going to parse comments by others that I have not seen, but I can confirm that we remain a full member of the European Space Agency in our own right, we are contributing record amounts to its budget, and we have every expectation of continuing to be a full member of that organisation long into the future.

[Joseph Johnson]

On the new clause's requirement to undertake an assessment, the Secretary of State for Exiting the European Union provided the relevant Committees with reports for many sectors, including one for the UK space sector, on 27 November. As the hon. Member for Central Ayrshire said, that report contained a description of the sector, the current EU regulatory regime, existing frameworks for the facilitation of trade between countries in the sector, and sector views.

Vicky Ford (Chelmsford) (Con): This is my first Bill Committee, so bear with me, Mr Bailey. The new clause suggests that the Secretary of State should have to make an annual assessment of the impact of our leaving the EU on research and development, including Horizon 2020, every year well after 2020, but Horizon 2020 clearly finishes in 2020. Does the Minister agree that it seems illogical to assess something that has already finished?

Joseph Johnson: I obviously note the point about the duration of Horizon 2020, which does indeed end at the end of 2020, but we have committed as a Government to exploring all options for future participation in the next set of framework programmes, which will start after 2020. We have every hope that those discussions will conclude successfully, because those research programmes deliver huge value to our science and research communities and to our universities all over the country, including in Scotland.

On that basis, I ask the hon. Member for Central Ayrshire to consider withdrawing her new clause.

Dr Whitford: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Bill, as amended, to be reported.

3.5 pm

Committee rose.

Written evidence reported to the House

SIB01 Thomas Cheney
SIB02 Fieldfisher