PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENERGY BILL [*LORDS*]

Twelfth Sitting

Tuesday 20 June 2023

(Morning)

CONTENTS

Clauses 256 to 259 agreed to, one with amendments.
Schedule 20 agreed to, with amendments.
Clauses 260 to 269 agreed to.
Clause 270 under consideration when the Committee adjourned till this day at Two o'clock.

PBC (Bill 295) 2022 - 2023

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 24 June 2023

© Parliamentary Copyright House of Commons 2023
This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: † DR RUPA HUQ, JAMES GRAY, MR VIRENDRA SHARMA, CAROLINE NOKES

Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blake, Olivia *(Sheffield, Hallam)* (Lab)
† Bowie, Andrew *(Parliamentary Under-Secretary of State for Energy Security and Net Zero)*
† Britcliffe, Sara *(Hyndburn)* (Con)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Fletcher, Katherine *(South Ribble)* (Con)
† Gideon, Jo *(Stoke-on-Trent Central)* (Con)
† Jenkinson, Mark *(Workington)* (Con)
† Levy, Ian *(Blyth Valley)* (Con)
† McCarthy, Kerry *(Bristol East)* (Lab)
† Morrissey, Joy *(Beaconsfield)* (Con)
Nichols, Charlotte *(Warrington North)* (Lab)
† Owatemi, Taiwo *(Coventry North West)* (Lab)
† Shelbrooke, Alec *(Elmet and Rothwell)* (Con)
† Western, Andrew *(Stretford and Urmston)* (Lab)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)

Sarah Thatcher, Chris Watson, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 20 June 2023

[Dr Rupa Huq *in the Chair*]

Energy Bill [*Lords*]

9.25 am

The Chair: Before we begin, I remind colleagues that *Hansard* would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk. Once again, I am happy to unilaterally give my permission for the removal of jackets, because it is hot in here. Please switch electronic devices to silent. Tea and coffee are not permitted, but there is a lot of water around—fizzy as well as still.

Clause 256

Application to the territorial sea of requirement for nuclear site licence

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

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

Government amendments 120 and 121.

Clauses 257 to 259 stand part.

Government amendments 124 to 126.

Government amendment 132.

Government amendments 127 to 129.

That schedule 20 be the Twentieth schedule to the Bill.

The Parliamentary Under-Secretary of State for Energy Security and Net Zero (Andrew Bowie): It is a genuine pleasure to serve under your chairmanship, Dr Huq, and to be back here for day seven of this Bill Committee.

A geological disposal facility, or GDF, is a highly engineered facility capable of isolating and containing radioactive waste within multiple protective barriers deep underground, so that no harmful quantities of radioactivity ever reach the surface environment. It is vital to the successful decommissioning of the UK's civil nuclear legacy and to our new-build nuclear programme, which will support the UK Government's net zero ambitions and energy security strategy.

Clause 256 makes it clear that certain nuclear sites—including a GDF, once prescribed in regulations—located wholly or partly in or under the sea, and within the boundaries of the UK's territorial sea, require a licence and are regulated by the Office for Nuclear Regulation. I want to make it clear that no part of a GDF will be in the sea itself, nor will radioactive waste be dumped in the sea—that is banned by international conventions, including the London convention and protocol. The process to find a site for a GDF is under way, so it is vital that we have a clear legal framework to ensure that such a site will be licensed and subject to oversight by the Office for Nuclear Regulation.

Alan Brown (Kilmarnock and Loudoun) (SNP): Given the Government's plan for a quarter of electricity to be generated by nuclear by 2045, how much additional nuclear waste does the Minister predict? How much additional nuclear waste will be stored at the new geological disposal site, and what is the estimated cost of the new facility?

Andrew Bowie: The costings of any geological disposal facility will be presented to Parliament for scrutiny, but the process is under way to find a site that will be large enough to cope with any increase in waste from our civil nuclear fleet. The hon. Gentleman might be interested to learn that Finland has just opened, and is beginning to utilise, a new GDF. That is the model that we in the UK would like to follow.

Mark Jenkinson (Workington) (Con): I hope the Minister is going to propose that the Committee visit the facility in Finland. Does he agree that it is unhelpful that our detractors cannot seem to distinguish between legacy waste from a number of programmes and waste from new nuclear establishments, for which we have well-established protocols?

Andrew Bowie: Absolutely—I could not agree more with my hon. Friend. I would be delighted to propose a trip to Finland for all Committee members, but it is not within my gift to organise such a trip. If anybody who is able to host us is listening, I would be keen to engage on that.

I agree with my hon. Friend's comments regarding new nuclear waste. The excellent work being done in Sellafield—I know that is not in his constituency, but it is certainly in his part of the country—is an example to the world of how we regulate and dispose safely of nuclear waste that has been created. When we talk about a GDF, we are talking about new nuclear waste, which will come about as part of the exciting, new, world-leading and revolutionary investment in a civil nuclear fleet that the United Kingdom is engaged in right now. The north-west of England will be at the very heart of that.

Alan Brown: Will the Minister explain the process for looking for a new geological disposal site? Will consultants do it? Will it be desktop-based to start with, and then involve intrusive site investigations? Will people bid to have a site? How will the process work?

Andrew Bowie: That is a good question. In fact, I was just coming to the process. The GDF siting process is a consent-based approach that requires a willing community to be a partner in the project's development. The siting process is already under way. Four areas have entered the process: three areas in Cumberland—in Copeland and Allerdale—and one in East Lindsey in Lincolnshire.

Government amendment 120 removes superfluous wording in new section 3A of the Nuclear Installations Act 1965. A licensed disposal site, as defined for the purposes of the new section, is not a nuclear installation within the meaning given by section 26(1) of the Act, so does not need to be mentioned explicitly in subsection (3). The amendment therefore removes it from the clause to correct this error. Amendment 121 is consequential on

amendment 120 and removes the unnecessary definition of a licensed disposal site from new section 3A of the Nuclear Installations Act 1965.

The UK's nuclear decommissioning programme is accelerating as older nuclear sites approach the end of their life cycle. As the first major nuclear sites will reach their final stages of decommissioning in the 2030s, it is essential that our nuclear legal framework is fit for purpose, while continuing to ensure an absolute focus on safety and security as the key priority. The Nuclear Installations Act 1965, which provides such a framework for nuclear safety and nuclear third-party liability, was written before serious consideration was given to decommissioning.

Clause 257 will amend the procedures for exiting nuclear third-party liability. Currently, the 1965 Act has the effect of requiring nuclear sites to remain subject to nuclear third-party liability for longer than is required by internationally agreed standards. The clause implements an alternative route based on internationally agreed recommendations and will apply to nuclear installations in the process of being decommissioned. It adopts a simpler and equally safe route out of the NTPL regime for non-nuclear parts of the nuclear site, such as laboratories, workshops, offices, car parks and land.

Clause 257 changes procedures for ending nuclear licences and regulation by the Office for Nuclear Regulation. It will require the licensee to apply to the ONR to end the licence and will require the ONR to consult the Health and Safety Executive before accepting an application. The ONR will accept an application when it considers that all nuclear safety matters have been resolved. Once the licence has ended, the ONR's regulation of the site will cease. HSE will pick up responsibility for regulating the health and safety of work activities, while the relevant environmental agency will continue to regulate environmental matters for years or even decades after the end of the nuclear licence.

The clause has the effect of removing a barrier to the on-site disposal of suitable low or very low-level radioactive waste and avoiding the unnecessary excavation and transport of this material. Demolition work results in the creation of large amounts of rubble and waste, a small percentage of which may be lightly contaminated with radioactivity. Excavating that material can create radioactive dust, which is a hazard for workers. Transporting waste to disposal facilities can have noise and traffic impacts for local residents.

The existing environmental legislation, which the clause does not modify, was developed with land remediation in mind. It allows the operator to apply to the relevant environmental agency for a permit to dispose of suitable low or very low-level radioactive waste on site. Applications are subject to robust analysis, and an environmental permit would be granted only if disposing of the waste on site would be a safer and more sustainable option than excavating it and transporting it to disposal facilities elsewhere.

Finally, the clause will allow operators to apply to the ONR to exclude those disposal facilities for nuclear waste that do not require a nuclear licence from the nuclear licensed site boundary. To be clear, the clause does not constitute a relaxation in the standards for public protection. It aligns with UK radiological protection law, international standards and UK Health Security Agency guidance.

Clause 258 will bring an international agreement on nuclear third-party liability into UK law. Its aim is to lower the financial and regulatory burden on low-risk radioactive waste disposal facilities. Sites that meet the criteria will be exempted from the requirement to make provision for third-party claims. Injuries or damages will instead be covered by ordinary civil law, which is robust, proportionate and established. The clause allows the Secretary of State to set out by regulation the conditions that must be met to be excluded from nuclear third-party liability under the OECD Nuclear Energy Agency's criteria.

The clause includes limits for radioactivity concentration that disposal facilities must meet. Only facilities with sufficiently low concentrations of radioactivity and negligible nuclear risk will be exempted from the requirement to hold nuclear third-party liability. The measures will help to ensure that the UK has sufficient disposal facilities for low and very low-level waste as the decommissioning of the UK's legacy facilities accelerates and new nuclear projects are developed.

Clause 259 gives effect to schedule 20, which amends the Nuclear Installations Act 1965 to enable UK accession to a second international nuclear third-party liability treaty called the convention on supplementary compensation for nuclear damage. Nuclear third-party liability regimes aim to ensure that victims of a nuclear incident have access to adequate compensation. They also support investor and supply chain confidence by channelling liability to the nuclear operator and placing limits on their liability. The UK already has a robust nuclear third-party liability regime, being party to the Paris and Brussels agreements. The schedule 20 amendments to the 1965 Act that enable UK accession to the CSC will enhance the existing UK regime. Accession to the CSC enhances several of the benefits of our current nuclear third-party liability regime.

Government amendments 124, 125, 126, 127, 128, 129 and 132 make minor and consequential changes to schedule 20 to ensure the accurate implementation of the CSC. They will ensure that, following accession to the CSC, the UK does not inadvertently close off routes to compensation for nuclear damage. That applies to countries and victims that are currently able to claim under our existing nuclear third-party liability regime. To establish that, they seek to remove unnecessary consequential amendments as a result of the further amendments tabled. The changes also ensure that victims from a non-nuclear CSC state can claim under the appropriate conventions.

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship again, Dr Huq. It is also a pleasure to hear the Minister rattle through the Government amendments at really high speed. As he identified, this part of the Bill is about civil nuclear sites. Among other things, it is about the repository that we do not have at the moment—in other words, we have not yet found a repository. It would be helpful if the Minister were able to tell us where we are in that search. Does he think the clauses take that process further forward? Or do they impede or lengthen that search?

I am sure the Minister recalls that, some while ago, his party indicated that no new nuclear development would be signed off and authorised until a repository had been located and established. Now, of course, two

[Dr Alan Whitehead]

civil nuclear sites are under active development. Hinkley C is under active development—the reactor core is in place and connected works are under way. I visited the site a little while ago and it really is in a very advanced state, so we can anticipate that nuclear power will come on stream in, I guess, about 2026. I have been guessing that it will come on stream every year since 2017, but we hope that will happen.

Advance discussions and some initial site works have been done for Sizewell C. The reactor that is going in is essentially the twin of the Hinkley C reactor, and a lot of the site works are being replicated to speed up that process a bit. I have not visited Sizewell C yet because—rather like in the story I told a while ago about the underground cable—there is not a great to deal to see at the minute, but we can anticipate that we will have four new nuclear reactors onstream by the early 2030s. All that is taking place alongside a process for a nuclear repository—a final solution for the issue of long-term nuclear waste.

Alan Brown: Does the hon. Gentleman agree that there is a real paradox here? Allegedly the site rate for Hinkley Point C already has built into it the decommissioning costs for the storage of nuclear waste at the end? We are told that the estimates for Sizewell C will include all the costs of decommissioning and disposal up front, but how can EDF properly allow for those costs when it does not even have the new geological disposal facility that it needs to access?

Dr Whitehead: The hon. Member makes a good point. I would think that it is very difficult under the present circumstances. I was about to talk about that briefly. On both those sites the question arises, as he alluded to, of what we do with the nuclear waste from their operation, and what plans are in place for their eventual decommissioning at the end of their lifetime. Having served on various Bill Committees with me, the hon. Member will recall that in a recent nuclear Bill the question was raised of ensuring that a reasonably accurate built-in planning arrangement for decommissioning would be in the programmes that are agreed for nuclear power plants. The plans both for decommissioning and for what happens to nuclear waste as we go along are rather important to get right, given that there is no geological repository either under way, unlike the new nuclear power stations, or finally identified.

We could say that the provisions apply to something that is not really there. It may be there in a little while, or it may not be there for quite a while. Meanwhile, the two nuclear power stations are getting under way and being build. We know that quite a lot of the nuclear waste that has arisen from activities around Sellafield is stored in ponds, which are open to the surface and are safe to the extent that the nuclear waste is firmly stored underwater and there is no risk of it spilling out, except if someone planted a bomb in the pond. The pond would then disperse its contents, but obviously a geological facility is proofed against that occurring. The question is about what sort of planning the new nuclear power stations are likely to undertake for the storage of nuclear waste during their operation, and for its storage and disposal when they are eventually decommissioned.

Mark Jenkinson: May I suggest that the hon. Gentleman arranges a visit to Sizewell B to see exactly how we store new nuclear waste from relatively new facilities? Sizewell B was also under an obligation to deal with the cost of its waste in advance.

9.45 am

Dr Whitehead: I appreciate that Sizewell B is already storing nuclear waste, and I understand that it is doing so quite effectively, although I have not actually been to see it. Obviously, Sizewell B is the newest nuclear power station in the fleet, even though it is not that new. The storage of newer nuclear waste is pretty good and, as the hon. Member rightly points out, the amount of nuclear waste is much lower than in, say, the old Magnox reactors. The issue of the storage of nuclear waste is largely about legacy waste, not new waste, but that is not to say that a fair amount of both high-level and low-level nuclear waste will not arise in the operation of new power stations—Sizewell C and Hinkley C—and, as is clear in the amendments that the Bill makes to nuclear legislation, there is still an obligation, upon full decommissioning, to ensure that there is no hazard whatever on the site from any radiation. That is quite a high bar. I am sure that is something we would all support.

Do the planners and organisers of new power stations—Hinkley C and Sizewell C—plan for on-site storage over the next period and for forms of disposal upon decommissioning that are not geological disposal sites, as a contingency in the event that we still do not have a geological disposal site when those plants are up and running? Or do they rely on the idea that there might be a geological site coming along, although we do not quite know when? We think it might be in the not-too-distant future, but we have not quite got there yet.

As the hon. Member for Kilmarnock and Loudoun correctly points out, that creates quite a difficulty in planning contingency, when building a nuclear power station in the first instance, for decommissioning and the safe storage and disposal of waste nuclear material. I am not sure how that has been resolved in the protocols that have been agreed with the power stations that are under way at the moment, and nor am I exactly up to date with where we are on the geological disposal site. I think I am up to date to the extent that we have not actually found one yet and that, although we have offered favourable terms to several communities to host a nuclear geological disposal site, we have yet to receive support to get it under way.

It would help us to judge the clauses a little better to get a brief rundown of where we are in that process and what plans the Government have either to accelerate it or to determine it in the end, so that as we develop our new nuclear programme we can be reasonably certain that the protocols in place for disposal and decommissioning will be reliable in future. I would be grateful if the Minister would let the Committee know that information.

I have a query and concern of a rather different order about schedule 20. As the Minister said, schedule 20 is about accession to the convention on supplementary compensation for nuclear damage. That international convention, which eventually came into force in 2015, having been agreed, I think, in 1997, sets out the supplementary compensation for nuclear damage on an

international tariff basis, so that there is consistency in how compensation is dealt with in the event of accidents or other problems at civil nuclear installations in different parts of the world. So far, so good—it is a good convention and it is important that we are part of it. Indeed, the schedule ensures that we are fully a part of that convention.

There is a bit of a puzzle here. The Government have inserted into the Nuclear Installations Act some proposed new subsections about

"further non-CSC-only claims to compensation"

and have denominated all those claims, and how the provisions about them work, in euros. That is in the Bill. Proposed new subsection (3BA), for example, states that

"the appropriate authority may be required to satisfy them up to the equivalent in sterling of 1,500 million euros".

Proposed new subsection (3BB) states:

"To the extent that further non-CSC-only claims for compensation are CSC claims, the appropriate authority may be required to satisfy them up to the equivalent in sterling of the aggregate of 700 million euros".

Proposed new subsection (3BC) states:

"To the extent that further non-CSC-only claims for compensation are both special relevant claims and CSC claims, the appropriate authority may be required to satisfy them up to the equivalent in sterling of the aggregate of 1,500 million euros".

I do not know whether this is the secret explanation for why the then Secretary of State for Business, Energy and Industrial Strategy, the right hon. Member for North East Somerset (Sir Jacob Rees-Mogg), withdrew the Bill during its passage through the Lords—because he thought that this was a plot to move against Brexit—but it is a bit odd that compensation is denominated in euros, when of course the rate is variable and we would be in a position to vary claims according to the relationship of sterling to euros. In any event, this is an international convention. Perhaps there is a simple explanation, which I hope the Minister has in front of him, but we are signed up to an international convention, not a European convention.

It may be—I do not know—that these measures are a hangover from our membership of Euratom, which we of course de-acceded from at the time of Brexit. It be that if we were a party to Euratom, Euratom would take the place of national membership of the convention and therefore everything would be denominated in euros, but of course we are not now a member of Euratom—we are our own actor, as far as various conventions relating to nuclear safety and activity are concerned—yet we are still denominating things in euros.

While I do not wish to amend the Bill so that we do not denominate claims in euros—I am concerned that the Minister's career may be in jeopardy if he does not do the job of creating instruments that get us out of being in thrall to the EU and euros—I gently point out that it looks a bit odd. Is there an intention at any stage to regularise that procedure?

Andrew Bowie: The hon. Member's concern for my career is welcome, and I thank him for expressing it in such kind terms. However, I reassure him and every person in this room—and, indeed, anybody else who might be following the proceedings—that the Government are not secretly taking us into the eurozone through accession to the CSC. It is not an EU treaty. The reason that the sums involved are denominated in euros is simply that the moneys referred to in the treaties that we are currently signed up to—the Paris convention and the Brussels supplementary convention—are expressed in euros. This is just a continuation of the same process. The CSC is an international convention, and we are therefore using the same denominations as in those other conventions. I am sure the hon. Member will be relieved to hear that there is no secret plot. The CSC, of course, is under the International Atomic Energy Agency.

Dr Whitehead: So the Minister can state that all signatory countries to the CSC denominate their compensation in euros, just the same as we do.

Andrew Bowie: I would think that those that are signatories to the Paris and Brussels conventions may. I am led to believe very strongly that it is not the case that all signatories denominate in euros, but we do, as a result of our current membership of the Paris and Brussels conventions.

Dr Whitehead: So we do not have to denominate these things in euros, because a number of signatories to the CSC do not, and presumably their membership of the CSC is not in jeopardy as a result. Presumably, we would have the opportunity not to use euro denomination, like those other members, but we nevertheless we do.

Andrew Bowie: I feel that we may be going round in circles. The Paris convention is a base convention. That is why there is carry-over into the new convention that we are acceding to—the CSC—to maintain the denomination in euros. However, I would suggest that those who are seeking compensation do not really care in which denomination their compensation is paid as long as they receive it in the end for any damage that is caused. I think we have spent quite enough time debating the denomination in which people will receive compensation.

10 am

The hon. Member for Southampton, Test spoke at length about GDFs. As I said, work is under way to find a GDF location. Four areas have answered the siting process—areas in Copeland, Allerdale and Theddlethorpe, which is in Lincolnshire. They have all formed community partnerships. The first geological and site sustainability investigations were concluded in those areas last year, so the process is under way. Contrary to the hon. Gentleman's suggestion, there is—certainly in parts—a great deal of support for the possible siting, due to the community benefits that will arise as a result of the location of a GDF facility.

The hon. Gentleman also asked about the cost of the GDF. Estimates of the whole-life cost are about £20 billion to £53 billion, and the cost to the UK Government is about £10 billion to £27 billion. The large range is due to uncertainties about location. The cost will be spread out over 100-plus years, as I am sure Members would expect.

To touch on one of the other problems that the hon. Gentleman identified, current plans already account for legacy waste, which is far and away the majority of

waste by volume, and 16 GW for new nuclear projects. Nuclear Waste Services, the developer of the GDF, is confident that it can meet the waste requirements of the up to 24 GW of new nuclear projects set out in the energy security strategy. It is already planning for two thirds of that—the 16 GW that I referred to—and is in the very early stages of a flexible and adaptable design process. I want once more to praise the work of the Nuclear Decommissioning Authority and all those working at Sellafield and around the country to ensure that the current fleet is supported and that waste is disposed of safely.

Dr Whitehead: I hope that my comments about the fact that we do not yet have a community that has said it will support a geological waste facility does not necessarily mean that there is not support for the facility to be sited in various parts of the country. It is just that, as I understand it, no authority has actually said, "Yes, we're happy to have this facility in our area and we wish to proceed with it." I assume that that is a factor in the question I was trying to get at: when can we expect a geological facility to be timetabled, developed and finally established, and to what extent does that timeline cohere in the context of the nuclear power stations that we are presently commissioning and will bring online in the future?

Andrew Bowie: I thank the hon. Gentleman for his question and for clarifying his earlier comments. As I said, we are at the beginning of the process of identifying a geological disposal facility. Surveys are under way. We are working with communities that have already expressed an interest and we will continue to do so as we move forward.

Question put and agreed to.

Clause 256 accordingly ordered to stand part of the Bill.

Clause 257

DECOMMISSIONING OF NUCLEAR SITES ETC

Amendments made: 120, in clause 257, page 223, line 15, leave out

"or a licensed disposal site".

This amendment corrects a minor and technical drafting error in new s.3A of the Nuclear Installations Act 1965: a licensed disposal site (as currently defined for the purposes of the new section) is not a nuclear installation (within the meaning given by s.26(1) of the Act) and so the carve out in subsection (3) is not necessary.

Amendment 121, in clause 257, page 224, leave out lines 5 to 8.—*(Andrew Bowie.)*

This amendment, consequential on Amendment 120, removes the unnecessary definition of "licensed disposal site" from new section 3A of the Nuclear Installations Act 1965.

Clause 257, as amended, ordered to stand part of the Bill.

Clauses 258 and 259 ordered to stand part of the Bill.

Schedule 20

ACCESSION TO CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE

Amendments made: 124, in schedule 20, page 374, line 9, leave out sub-paragraph (4).

This amendment and the Minister's other amendments to Schedule 20 make minor and consequential changes to that Schedule to ensure accurate implementation of the CSC.

Amendment 125, in schedule 20, page 375, line 7, leave out

", (3BA), (3BB), (3BC), (3BD) or (3BE)"

and insert

"or, in a case where the relevant reciprocating territory is also a CSC territory (as defined by section 16AA), (3BB)".

See the Minister's explanatory statement for Amendment 124.

Amendment 126, in schedule 20, page 377, line 4, at end insert—

"(c) a country mentioned in section 26(1B)(b),

(d) an overseas territory mentioned in section 26(1B)(c) or (d), or

(e) a relevant reciprocating territory."

See the Minister's explanatory statement for Amendment 124.

Amendment 132, in schedule 20, page 378, line 11, at end insert—

"(as amended or supplemented from time to time)".

This amendment ensures that the definition of "the CSC" in Schedule 20 is to the Convention on Supplementary Compensation for Nuclear Damage as amended or supplemented.

Amendment 127, in schedule 20, page 379, line 13, leave out

"In section 26 of the 1965 Act (interpretation),"

and insert—

"(1) Section 26 of the 1965 Act (interpretation) is amended as follows.

(2)".

See the Minister's explanatory statement for Amendment 124.

Amendment 128, in schedule 20, page 379, line 27, at end insert—

"(e) after the definition of 'overseas territory' insert—

'"the Paris Convention" means the Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960, as amended by the Additional Protocol of 28 January 1964, by the Protocol of 16 November 1982 and by the Protocol of 12 February 2004;'."

This amendment sets out a definition of the Paris Convention for the purposes of the amendments to the Nuclear Installations Act 1965 to which Amendment 129 relates.

Amendment 129, in schedule 20, page 379, line 27, at end insert—

"( ) In subsection (1A)(a)—

(a) in the opening words, for 'a relevant international agreement' substitute 'the Paris Convention';

(b) in sub-paragraph (i)—

(i) for 'relevant international agreement' (in each place it appears) substitute 'Convention';

(ii) for 'agreement' (in the third place it appears) substitute 'Convention';

(iii) for 'agreement's' substitute 'Convention's';

(c) in sub-paragraph (ii), for 'relevant international agreement' substitute 'Convention'."—*(Andrew Bowie.)*

See the Minister's explanatory statement for Amendment 124.

The Chair: We now come to the Question that schedule 20, as amended, be the Twentieth schedule to the Bill. *[Interruption.]* Dr Whitehead, anything else?

Dr Whitehead: Sorry, Dr Huq, I was making a comment from a sedentary position.

The Chair: Chuntering is a bad habit.

Schedule 20, as amended, agreed to.

Clause 260

PROVISION OF ADDITIONAL POLICE SERVICES

Dr Whitehead: I beg to move amendment 162, in clause 260, page 230, line 23, at end insert—

"(d) the provision of the additional police services in question is within the competence and in accordance with the usual operational practices of the Civil Nuclear Constabulary".

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

Amendment 163, in clause 260, page 230, line 33, after "Secretary of State", insert "or the Police Authority".

Clause stand part.

Clauses 261 to 263 stand part.

Dr Whitehead: I remain quite amused that we smuggled a euro or two into our flexibility structure a moment ago. I am sure that that will go down in history.

Clauses 260 to 263 relate to the Civil Nuclear Constabulary. For those who do not know too much about that constabulary, as I must admit that until recently I did not—

Mark Jenkinson: I am sorry for taking up so much of the hon. Gentleman's time this morning, but on that note, I have a drop-in with the Civil Nuclear Police Federation at 12 o'clock today in room Q in Portcullis House. I encourage all colleagues to attend.

Dr Whitehead: That is a very helpful intervention, because among other things it means that our business will have to be finished by 12 o'clock this morning to facilitate our collective visit to the drop-in to be better informed about the Civil Nuclear Constabulary.

The Civil Nuclear Constabulary was established under the 1965 Act. It has about 1,500 officers nationally; they occupy eight sites in England and three in Scotland. There is a headquarters in Culham, with a chief constable and so on. It is just like a police authority, only not geographically in one place. Its prime responsibility is not guarding nuclear sites—that is for the Ministry of Defence police and the Army, basically—but the security of the sites and all that goes with policing around nuclear sites. I think it has jurisdiction up to 5 km away from nuclear sites. I will be interested to hear more about this, but as I understand it, it is a very specialised force.

All members of the Civil Nuclear Constabulary are routinely armed and are trained to that extent. They undertake virtually no arrests. A couple of years ago, they made a total of 24 arrests; last year I think they made 10, two of which turned out not to be arrestable. In comparison, an ordinary police force of the same size, such as Dorset police, would make about 7,500 arrests in an average year. The profile of the Civil Nuclear Constabulary's activity and specialities is very different from that of an ordinary police force.

That is not saying very much about the Civil Nuclear Constabulary, other than that it is a specialist force, has jurisdiction relating to nuclear sites and, as far as I understand it, does a very good job at what it is asked to do. The clauses before us are not about the Civil Nuclear Constabulary itself, but about the extent to which its officers might, as it were, be rented out to other police forces. "Rented out" sounds a rather pejorative way of putting it; it is not intended to be, but that is really the only way I can describe it.

The clauses concern the circumstances under which officers can be seconded—I would say rather more than seconded—to other forces, subject to a decision of the Secretary of State. Clause 260(1), which will amend the Energy Act 2004, states:

"The Constabulary may, with the consent of the Secretary of State, provide additional police services to any person",

which basically means to any other police authority.

Clause 260 also states that the Secretary of State

"must not give consent for the purposes of subsection (1) unless satisfied, on an application made by the Police Authority",

which I assume means the Civil Nuclear Police Authority, that the application

"is in the interests of national security"

and

"will not prejudice the carrying out of its primary function under section 52(2)"

of the 2004 Act.

The establishment of the Civil Nuclear Police Authority is a little anomalous, by the way. It was originally under the jurisdiction of the Department for Business, Energy and Industrial Strategy and has now effectively been transferred to the jurisdiction of the Department for Energy Security and Net Zero, rather than the Home Office, as is the case with ordinary police forces.

10.15 am

Basically, clause 260 concerns the provision of additional police services, or renting out police, to other police authorities. Further clauses not only provide arrangements enabling additional police services to be provided to other police authorities, but provide that the police authority may expect to receive money from other police forces for those additional police services. The term "renting out" is not completely redundant, inasmuch as it is clear that compensation will change hands. The constabulary will be compensated in some way for the police services provided, rather like when a footballer is loaned out for part of a season, whether the team pays the whole of their salary or only part of it.

It appears that the Secretary of State may determine that renting out police is not a good idea. The police authority is involved in consultation with the Secretary of State as to whether the renting out arrangements should be progressed, should come to an end or should be temporarily brought to an end. Conspicuously, however, the chief constable of the force does not appear to have any say, in operational terms, in whether his or her officers are to be rented out in the way described. That gives rise to a number of considerations about which I hope the Minister will be able to say a little more, and which are reflected in our Opposition amendments.

The first overall conceptual consideration that perhaps we ought to think about is whether, if there are apparently circumstances in which any number of the Civil Nuclear Constabulary may be rented out, that brings into question whether the Civil Nuclear Constabulary itself is properly established. Is there routinely a surplus of officers who are signed up to the Civil Nuclear Constabulary but are not generally needed for its purposes and can easily be provided to other authorities on a routine basis, or is this to be just an occasional thing when a police authority has a desperate need at a particular juncture?

Can the Civil Nuclear Constabulary proceed with its business under those circumstances? Since it was set up by the Energy Act 2004 with different forms of responsibility, I presume that, as matters stand, the forces are effectively legislatively separate. The amendments proposed to the Act therefore give force to the idea that police can be transferred between authorities. I presume that if the Civil Nuclear Constabulary were not established as a separate authority under a different Department, the transfers would potentially be reasonably straightforward.

I do not know what the arrangements are between police authorities at the moment, but there are certainly pretty routine transfers between authorities. If there is a large event, particularly a large civil disturbance or a civil disaster, police will be transferred in from all sorts of other authorities on a reasonably routine basis. I am not sure what the arrangements for compensation are, but that is how it works. Clearly that is not so with the Civil Nuclear Constabulary.

The second issue, which is of particular moment, is the circumstances under which police officers are recruited, trained and made operational within the Civil Nuclear Constabulary. As I have said, and as I am sure we will learn further if we go to the drop-in—I cannot remember which room the hon. Member for Workington said it was in—

Mark Jenkinson: Room Q in Portcullis House.

Dr Whitehead: If we go to room Q, we will find out more, but civil nuclear constables are special police. They are recruited and trained in a different way, their responsibilities are different, and the activities they undertake are normally different. That gives rise to questions about whether civil nuclear constables can easily be transferred to other police authorities. I assume that the rental agreement would state whether they should undertake the ordinary activities that constables in comparable authorities undertake. Are they to be rented out on the basis that they will become ordinary police constables in a particular authority, or on the basis that they have special arrangements? They clearly will not have special arrangements concerning arresting people, so I imagine that the arrest rate of a police authority that had recruited police constables from the Civil Nuclear Constabulary for additional services would not go through the roof. Such constables are routinely armed, so there is also a question about whether they would be disarmed for the purpose of undertaking their duties in other police forces.

The answers to such questions do not appear in the clauses before us. There is just an arrangement that police constables can be rented out, that compensation can be paid for them, that the Secretary of State can intervene if he or she thinks there are problems, and that the police authority has to be consulted about renting out and, as it were, de-renting—that is all that the clauses cover.

I do not necessarily imagine that our amendments will be pursued to a great extent, but I would very much like to hear the Minister's response to what they are trying to do. On the renting out of police, amendment 162 would clarify that

> "the provision of the additional police services in question is within the competence and in accordance with the usual operational practices of the Civil Nuclear Constabulary".

That is, those police who are rented out are not to be turned into ordinary police, and the circumstances of the renting out should be within the competence of the Civil Nuclear Constabulary, so we should not reasonably expect them to turn out to be ordinary policemen in other police authorities.

Also, we want the Civil Nuclear Police Authority to be rather more involved in decisions as to whether to continue renting out, so amendment 163 would add the words "or the Police Authority" after "Secretary of State". We are trying to tighten up both the concept and the practice of these arrangements, to ensure that there is respect for the fact that the Civil Nuclear Constabulary is a specialist service, with staff who have special skills, qualities and qualifications that may differ from those of police in other forces. Renting-out arrangements should respect that. We should be a little careful to ensure that we do not put a square peg in a round hole through this renting out, even though there may be circumstances where a freer interchange of police between the Civil Nuclear Constabulary and county police forces could take place, and would benefit both sides.

I appreciate that clauses 260 to 263 to some extent supply what was left out from the Energy Act 2004, in which the Civil Nuclear Constabulary was defined, but I am not sure that the clauses do the job completely, and make sure that the strengths and qualities of the Civil Nuclear Constabulary are properly reflected in any renting-out arrangement, and that its constables are not expected to do things for which they are not trained, or in which they do not have experience, if they are seconded to other constabularies.

Andrew Bowie: First, as the Civil Nuclear Constabulary will be in room Q, Portcullis House, at midday today, at a meeting hosted by my hon. Friend the Member for Workington, I pay tribute to all the officers and staff who serve so diligently in that constabulary. I had a very enjoyable and informative meeting with Chief Constable Simon Chesterman and the chairman of the Civil Nuclear Police Authority, Susan Johnson, a couple of weeks ago. The constabulary serves this country and does incredibly important work protecting our civil nuclear fleet. It is incredibly well trained for that.

The hon. Member for Southampton, Test, referred to "ordinary" policing. Yes, Civil Nuclear Constabulary officers are highly trained in armed policing, and in the specialties that they have to be trained in to carry out their job, but they are also trained in what he described as ordinary—unarmed—policing, and are held to stringent College of Policing standards, such as those set out in the authorised professional practice armed policing guidance. That is consistent across the organisation, regardless of which site an officer is deployed to, and that would remain the case if there was any expansion of the constabulary's services.

The Secretary of State must consult the chief constable before providing consent to the constabulary providing additional services. That ensures that the views of the person who is arguably best placed to assess competence and operational arrangements is taken into consideration. Should the CNC take on additional responsibilities outside the civil nuclear sector—we have been talking

about that today—the chief constable will be responsible for ensuring that any additional training requirements are identified and delivered. I hope that addresses the concerns of the hon. Member for Southampton, Test, on that point.

The Civil Nuclear Constabulary is a crucial component of our civil nuclear security system, as the specialist armed police force dedicated to the protection of our most sensitive civil nuclear facilities, and of civil nuclear material in transit. In the evolving national security and energy landscape, we want to ensure that we are making the best use of our resources to protect the UK's essential services and critical national infrastructure, as well as our wider national security interests.

10.30 am

Clause 260 will allow the Civil Nuclear Constabulary to provide policing services beyond civil nuclear sites, if consent is granted by the Secretary of State. The clause sets out three criteria that the Secretary of State must be satisfied are met before granting consent: first, that any additional police services will be in the interests of national security; secondly, that the CNC's core nuclear security mission will not be prejudiced; and, thirdly, that it is reasonable in all circumstances for the CNC to provide those services.

The hon. Gentleman's amendment 162 would add a fourth test to the criteria: that the provision of the additional police services in question is within the competence of, and in accordance with, the usual operational practices of the CNC. I share his concern that CNC officers should not be performing duties that they have not been trained and equipped for. However, I believe that the test is already covered by the third element—that the additional police services should be reasonable in all circumstances. I also refer hon. Members to my earlier point: all police officers in the CNC are held to, and trained to reach, the highest standards.

That third test is designed to require the Secretary of State to take into consideration all relevant factors when asked to give consent to the CNC providing additional policing services. That could include, for example, whether the CNC will have the necessary skills and training. All activities will, of course, be in compliance with the applicable legislation and within the operational competence of the force. I do not believe, therefore, that the suggested fourth condition is necessary, and I humbly ask that amendment 162 be withdrawn.

Amendment 163 would enable the withdrawal of consent if the Civil Nuclear Police Authority considers that the criteria are not met. The CNPA is the body that will enter into agreement with the person or persons to whom additional police services will be provided, when consent is given. The CNPA can therefore agree its own contract exit terms with the customer, which makes statutory provision unnecessary. In addition, I reassure the Committee that the Secretary of State would consider the views of the CNPA when considering whether it is appropriate for the CNC to provide policing services outside its core civil nuclear mission. I hope that the hon. Gentleman feels reassured that the CNPA will have appropriate controls over the activities of the CNC, and therefore feels able to withdraw amendment 163.

Clause 260 will amend the Energy Act 2004 to enable the Civil Nuclear Constabulary to use its expertise in deterrence and armed response to provide a wider range of policing services beyond the civil nuclear sector, in the interests of national security. That could be used to enable the CNC to provide armed guarding services to other facilities that provide vital services, or to deliver other protective policing in response to emerging threats. The security of our civil nuclear sites and materials will remain the CNC's core priority. The clause requires that, before granting consent for the CNC to take on additional services, the Secretary of State must be satisfied that the CNC's core nuclear security mission will not be prejudiced. It also includes an ongoing statutory duty on the CNC's chief constable to ensure that that remains the case.

Furthermore, the clause sets out provisions to ensure transparency and make amendments in relation to the CNC's jurisdiction. By empowering the CNC to deliver a wider range of services, the clause will help it to retain specialist personnel to protect civil nuclear projects such as Hinkley Point C, as well as to improve value for money for the taxpayer from the civil nuclear industry.

In addition to delivering its core mission, the CNC plays an important role in supporting local police forces and national counter-terrorism operations. For example, it has supported the policing of major public events, such as the Commonwealth games, the G7 summit and COP26. To my knowledge, it also helped police London bridge and the recent coronation. During those deployments, CNC officers operate under the control and direction of the chief constable of the host force that they are supporting. The CNC uses collaboration mechanisms available under section 22A of the Police Act 1996, which requires individual collaboration agreements to be signed with each territorial force. That introduces bureaucracy that hinders the CNC's ability to support other police forces during emergency incidents and other periods of unanticipated demand. Clause 261 will amend the Energy Act 2004 to streamline arrangements for the CNC providing support to other police forces in England, Wales or Scotland. That will allow the CNC to provide support for both spontaneous and planned deployments more quickly and effectively, and to provide specialist support as required.

The powers are in line with those already available to the England and Wales territorial police forces, the British Transport police and the Ministry of Defence police. The clause makes consequential amendments to ensure that, as with other forces, where the CNC is providing assistance under this arrangement, CNC officers would be under the direction and control of the chief officer of the requesting force, and would have the same powers and privileges as a member of that force. The powers are subject to safeguards to protect the CNC's primary civil nuclear security function. The clause also makes provision for charging arrangements for that assistance.

Clause 262 will enable the CNC to exercise cross-border enforcement powers, in line with the powers already available to the territorial police forces and the British Transport police. It will do that by adding members of the CNC to the list of constables able to exercise their powers in part 10 of the Criminal Justice and Public Order Act 1994. That will clarify the CNC's power to execute warrants, or powers of arrest where a person who is suspected of committing an offence in one part of the UK, such as Scotland, needs to be apprehended in another part of the UK, such as England. The clause

does not allow the CNC to exercise those powers in Northern Ireland, since the CNC does not operate in Northern Ireland.

Turning to clause 263, the Civil Nuclear Police Authority is the body responsible for ensuring that the Civil Nuclear Constabulary remains effective and efficient in delivering its vital nuclear security mission. Under the Energy Act 2004, the authority is required to publish a three-year strategy plan, which sets out the police authority's medium and long-term strategies for policing by the CNC to be achieved over a three-year period. The Act requires the authority to publish such a plan at the beginning of each financial year. The annual publication requirement creates significant administrative burdens, and introduces an element of uncertainty to the CNPA's delivery of its policing priorities in each three-year strategy-plan. Following a review of the governance procedures by the Department and the CNPA, it was concluded that the Energy Act should be amended to require a three-year strategy plan to be published every three years. That will improve efficiency and provide greater long-term certainty and stability for the organisation. Clause 263 does not affect wider obligations for the authority to publish annual reports and policing statements.

Dr Whitehead: The Minister addressed the overall subject of the Civil Nuclear Constabulary well, but I do not think that he entirely addressed our questions, which were not about the competency of the constabulary, or its establishment or function. Our questions were about the new provision that the Government are seeking to introduce regarding the extent to which police personnel could perform a wider function, depending on circumstances in the Civil Nuclear Constabulary.

By the way—this may be a reasonable topic for discussion in a drop-in—I would not like the Civil Nuclear Constabulary to be assumed to be an ancillary police force with some special responsibilities. It is clearly a very specialised and highly trained police force with a particular set of duties. By and large, it should have the necessary number of police constables to perform its duties. If over time—this may be something for the Department to consider, since it has special responsibility for the constabulary—the general conclusion is reached that this is a police force to which, to put it a bit unpleasantly, other forces can help themselves when they are in periods of stress, that would not be very good for the future of the constabulary.

There is another alternative. As the Minister mentioned, the police authority has to carry out three-year reviews. If during those reviews it is thought that substantial numbers of the police force had been rented out over the review period, there may be a temptation for a future Secretary of State—not present Ministers; I am sure they have a very close eye on what the Civil Nuclear Constabulary is doing and how it carries out its role—to say, "The Civil Nuclear Constabulary does not need all these people. Let's reduce its size. Let's cut it down to a smaller number, because that will do for its operations—we can see that it is renting out quite a lot of its force for other purposes." That would be a retrograde step.

The Minister prayed in aid, as a reason not to pass the amendment, proposed new section 55A(4)(c) of the Energy Act 2004, in which the Secretary of State must judge that

"it is reasonable in all the circumstances for the Constabulary to provide those services."

That is a bit of a problematic, I would have thought; how do we judge what is

"reasonable in all the circumstances"?

For that to apply, the officers must be "surplus to requirements", but most reasonable judgments would be, "Well, they are not surplus to requirements. They are a key part of the Civil Nuclear Constabulary and they are doing a good job." I would therefore expect that there would be a fairly high bar as to what was

"reasonable in all the circumstances",

but that is not defined. Our amendment attempts to define that effectively, by saying that the release of these officers would be

"within the competence and in accordance with the usual operational activities of the Civil Nuclear Constabulary."

We do not want to press the amendments to a vote, but I would like the Minister to give some assurance on the record that the

"reasonable in all the circumstances"

judgment would, in practice, be a full and close partner to the definition we attempted to apply to the leasing arrangement through amendment 162. Unless that is stated on the record, we will worry about the temptation to play fast and loose with the Civil Nuclear Constabulary when there are pressures elsewhere.

Andrew Bowie: To clarify, the expansion of the CNC will not in any way affect the CNC's core mission. We are absolutely not playing fast and loose with the Civil Nuclear Constabulary. The CNC's priority and core function will remain the protection of civil nuclear sites and material, in line with the UK's international obligations. Before granting consent for the CNC to take on additional services, the Secretary of State must be satisfied that the CNC's core nuclear supervision will not be prejudiced in any way. This legislation includes an ongoing statutory duty for the CNC's chief constable to ensure that that remains the case. I hope the hon. Member will withdraw his amendment on that basis.

10.45 am

Dr Whitehead: I thank the Minister for that intervention. Following the assurances he has given on that basis, among others, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clauses 260 to 263 ordered to stand part of the Bill.

Clause 264

Civil nuclear industry: amendment of relevant nuclear pension schemes

Kerry McCarthy (Bristol East) (Lab): I beg to move amendment 103, in clause 264, page 234, line 31, at end insert

", or on benefits in deferment or pensions in payment;"

This amendment means that the Secretary of State may not put a cap on revaluation of benefits in deferment or pensions in payment.

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

Clause stand part.

Clauses 265 to 269 stand part.

Kerry McCarthy: It is a pleasure to see you in the Chair, Dr Huq. These clauses relate to nuclear pension schemes, and the amendment would provide certainty that Nuclear Decommissioning Authority pensions would not be capped. There is some ambiguity in the drafting of the Bill, and the door has been left open for the introduction of regulations to cap pension increases when that is not part of what has been agreed in the past among Government, unions and nuclear workers.

I say the door has been left open for such regulations because subsection (3) (c) of the clause specifies that only increases for revaluation—that is, active deferred members—cannot be capped. It does not mention pensions in payment. The wording is

"not involving imposing a cap on any revaluation or revaluation rate".

The amendment would mean that the Secretary of State could not put a cap on revaluation of benefits in deferment or pensions in payment, as well as the other schemes I have mentioned.

The provision as it stands is contrary to the heads of terms agreement between BEIS and the NDA, which explicitly states that pension increases will be in line with inflation, as measured by the consumer prices index, with no reference to any cap. It is also important to note that, although members of recognised trade unions in the NDA group voted in favour of the reforms that these measures facilitate, I am told that there was by no means an overwhelming endorsement. Many voted in such a way because they feared the Government would impose even worse reforms, which had been threatened, if they did not agree to what is now on the table. They felt that that was the best deal they could get, but they feel that the promises made to them have been broken and they are not happy. Given that, it is even more important that we ensure that the Bill reflects the compromise agreement that was reached.

It is also wrong to say that these reforms would bring pension provision across the NDA group into line with wider public sector pensions, which I think is what the Minister in the Lords said. Those pension schemes underwent much more radical reform long before Lord Hutton's review of public sector pensions, and they have been closed to new entrants for many years. Lord Hutton recommended that public sector pension accrual remain on a defined-benefit basis, but pension provision across the NDA group is mostly on a defined-contribution basis. I have been approached by representatives of trade unions who are eager to meet the Minister to ensure that reforms are fully consistent with Lord Hutton's review. I do not know whether the Minister can offer today to meet those representatives, so I can take that back to them.

An amendment is necessary to remove any doubt about the status of nuclear workers' pensions. I am sure we all agree that the effectiveness of the Civil Nuclear Constabulary is essential to maintain the UK's nuclear security, and that the work of everyone at the NDA is really important, as we have already heard this morning. Those people are integral to keeping the public safe, and that should be recognised when legislation is being determined.

I hope the Minister accepts that the amendment has been tabled in a constructive spirit. It is designed to remove any uncertainty, and I hope he will accept it.

Andrew Bowie: I am searching in vain for a second Minister to take some of this Bill. Unfortunately, they do not seem to be available. I thank the hon. Member for Bristol East for moving her amendment and allowing us to debate an important issue, especially for employees of the Nuclear Decommissioning Authority. I recently had a constructive meeting with trade unions representing workers from the NDA and was happy to discuss the issues they are concerned about in depth and specifically the one we are debating today.

The Nuclear Decommissioning Authority agreed with unions as part of negotiations that the consumer price index should be used for revaluations and that it should not be capped. Both the reference to the CPI and that revaluations should not be capped are referenced in the clause. As the clause sets out, revaluations include pensionable earnings, benefits in deferment and pensions in payment. Pensionable earnings relate to the pension payments contributed by employee and employer while they are working. Benefits in deferment are those benefits that have been built up by an employee who has left the pension scheme but has not yet accessed it. Pensions in payment relate to those receiving their pension.

The Government are content, therefore, that the legislation as drafted does not exclude benefits in deferment and pension in payment from the non-capping of the revaluation of earning by CPI. It is therefore in line with the agreed scheme. However, I am happy to put on record that in the new scheme, both benefits in deferment and pensions in payment will be uprated by CPI and will not be capped. While I appreciate the hon. Member for Bristol East raising the issue and the importance of ensuring that those with benefits in deferment and pensions in payment do not have their revaluations capped, I do not think the amendment is necessary.

Kerry McCarthy: Can the Minister confirm that when he discussed this with the trade union representatives, they were happy to accept his assurances that that is what the Bill says? Certainly, they have not communicated that to us. As far as I am concerned, they still believe that getting our amendment into the Bill is still important.

Andrew Bowie: That specific element was not discussed or brought up in the meeting, but I am happy to meet trade unions again to continue the discussion on the matter.

Kerry McCarthy: If there is some ambiguity, is there a reason why he feels that putting a clarification in the Bill to spell it out and give those reassurances would not be acceptable? The amendment does not seek to change his position as I understand it; it just seeks to make sure that that is clear.

Andrew Bowie: I understand why some Members, including the hon. Lady and trade unions, would find that helpful. We do not believe it is necessary because I have stressed today on the record—it will be in *Hansard*—that it is the Government's position that those benefits in deferment and pensions in payment do not have revaluations capped and that they will be uprated by CPI.

[Andrew Bowie]

We do not think it is necessary because that is already the Government's position. It is on the record and I am happy to stand by that.

Turning to clause 264, the 2011 report by Lord Hutton of Furness started the Government on the road to the reform of public sector pensions. While the Public Service Pensions Act 2013 made a large number of reforms, it did not cover all public sector bodies, including those within the NDA group. The NDA is the statutory body responsible for the decommissioning and safe handling of the UK's nuclear legacy, with 17 sites across the United Kingdom, including Sellafield. Even though the NDA was created in 2005 via the Energy Act 2004, many of its sites have been operating since the middle of the 20th century. That lengthy history has led to a complicated set of pension arrangements, which include two pension schemes that, while closed to new entrants since 2008, provide for final salary pensions and are in scope for reform. They are the combined nuclear pension plan and the site licence company section of the Magnox Electric Group of the electricity supply pension scheme.

In 2017, the Government and the NDA engaged with trade unions to agree a reformed pension scheme that was tailored to the characteristics of the affected NDA employees. That resulted in a proposed bespoke career average revalued earnings scheme which, following statutory consultation with affected NDA employees and a ballot of union members, was formally accepted by the trade unions. Subsequently, a formal Government consultation was launched in 2018, with the Government publishing a response in December of that year confirming the proposed change.

The reformed scheme still offers excellent benefits to its members. Notably—and unusually compared with other reformed schemes—it still includes provision for members to retire at their current retirement age. For nearly everybody, that will be 60 years old. However, the complicated nature of the pension schemes, in the context of the statutory framework that applies to pension benefits across the NDA estate, means that specific legislation is needed to implement the new scheme.

Clause 264 provides the Secretary of State with the power to make secondary legislation designating a person who will be required to amend the provisions of a nuclear pension scheme. That is necessary, as at the current time the scheme rules limit the NDA's ability to make changes to pension scheme arrangements. Clause 264 uses the phrase "relevant nuclear pension scheme" to describe the types of schemes that a designated person could be required to amend by virtue of that amendment. Clause 265 explains what is meant by that phrase. Clause 265 also clarifies the UK Atomic Energy Authority pension schemes and pension schemes that benefit persons specified in the Public Service Pensions Act 2013 are not relevant pension schemes.

Clause 266 relates to the provision of information. In order to implement the proposed pension reforms, the NDA—and, in the case of the MEG-ESPS, Magnox Limited—will need information from others. Clause 266 gives a person who has been required to amend a relevant nuclear pension scheme the power to require persons holding any information they might reasonably require to provide that information. That could include the number of members in a pension scheme, and the salaries and ages of those members.

Data protection legislation may still prevent the information from being shared. The clause specifies, however, that in making that assessment, the requirement to disclose imposed by the clause must be taken into account. The clause also provides that disclosure does not constitute a breach of confidence or breach of any other restriction on the disclosure of information.

Clause 267 sets out definitions relevant to the clauses about amendments of relevant nuclear pension schemes. Clause 268 relates to the protection that is in place that would currently block any change of pension. Although the reformed pension to be provided to affected NDA workers is still excellent, it has always been clear that the reforms to public sector pensions would result in lower levels of benefits to members than is currently the case. Although that is the acknowledged effect of Government policy in this area, it does bring it into conflict with existing legislation. Both schedule 8 of the Energy Act 2004 and regulations made under schedules 14 and 15 of the Electricity Act 1989 effectively mean that any change to NDA pensions must be "no less favourable".

Clause 268 effectively expands a power made under an earlier clause, providing the ability for regulations made by the Secretary of State to amend or disapply schedule 8 of the Energy Act 2004 and regulations made under schedules 14 and 15 of the Electricity Act 1989. Given that this is not a hybrid Bill, we believe it is more appropriate for those powers to be exercised via regulation rather than primary legislation.

Clause 269 relates to the procedure for the regulations under this chapter. The Government believe it is right and proper for regulations under this chapter to be subject to the affirmative procedure. We also believe that these regulations should not be subject to the hybrid instrument procedure. There has been considerable consultation with those affected, and the policy is in line with pension reform across the public sector.

Kerry McCarthy: I welcome the Minister's assurances and his offer to meet the unions to discuss this point. I have spent a lot time looking at the wording. Although I agree that it could be interpreted in the way the Minister says, that is arguable. I still feel it would be best to have clarity in the Bill and, therefore, would like to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 8.

Division No. 8]

AYES

Blake, Olivia
Brown, Alan
McCarthy, Kerry
Owatemi, Taiwo
Western, Andrew
Whitehead, Dr Alan

NOES

Bowie, Andrew
Britcliffe, Sara
Clarkson, Chris
Fletcher, Katherine
Gideon, Jo
Levy, Ian
Morrissey, Joy
Shelbrooke, rh Alec

Question accordingly negatived.

Clauses 264 to 269 ordered to stand part of the Bill.

Clause 270

Prohibition of new coal mines

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

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

Clauses 271 to 273 stand part.

Government new clause 52—*Principal objectives of Secretary of State and GEMA*.

11 am

Andrew Bowie: I will start with the good news and first speak to clause 271 and Government new clause 52. The Government have maintained the view that Ofgem's principal objective makes its role in achieving the net zero target clear. However, we have carefully considered the effect of clause 271 with Ofgem and sought legal advice to ensure that the Lords amendments would not impact the hierarchy and intended effect of Ofgem's duties. We are therefore content to clarify Ofgem's duties by making specific reference to the net zero target in the Climate Change Act 2008.

The Government new clause is equivalent in substance to clause 271, but includes some minor drafting changes to ensure that the duty works in practice. First, it clarifies the authority's role in supporting, rather than enabling, the Government to meet their net zero target. Secondly, it clarifies the net zero targets and carbon budgets specific to sections 1 and 4 of the 2008 Act. The new clause does not change the intention of clause 271. I thank my right hon. Friend the Member for Kingswood (Chris Skidmore) for the recommendation in his report entitled "Mission Zero", Baroness Hayman in the other place and the energy industry for working constructively with the Government to bring forward this significant change.

I now turn to clause 270, which was also added to the Bill in the Lords on Report. The clause would prohibit the opening of new coalmines and extensions to existing coalmining in Great Britain. After carefully considering this addition, I tabled my intention to oppose the clause standing part of the Bill on 17 May. The Government are committed to ensuring that unabated coal has no part to play in future power generation, which is why we are phasing it out of our electricity production by 2024. Coal's share of our electricity generation has already declined significantly in recent years—from almost 40% in 2012 to around 2% in 2021.

Alec Shelbrooke (Elmet and Rothwell) (Con): Does my hon. Friend the Minister agree with me that although, as he rightly says, electricity production by coal has been as little as 1% and huge amounts of work can be done to reduce that carbon dioxide output, it is vital, with electricity generation, to maintain a baseload? As we saw recently when a gas turbine power station was turned off and we were relying on wind power, the baseload could not be maintained and the system tripped out for a large area of the country. Does the Minister agree with me that the objectives are fine, but physics and reality come in at some point?

Andrew Bowie: I could not agree any more wholeheartedly with or put it any better than my right hon. Friend. For energy security reasons, it is vital that we maintain all options that are open to us. That does not in any way impede, get in the way of or stand contrary to our overarching net zero ambition.

Alan Brown: On that point, as the Minister agrees with his colleague, is the Minister saying that he needs to keep coal generation as an option, on the table, beyond the planned phase-out date? Because that is what I just heard.

Andrew Bowie: No, the planned phase-out date of October 2024 is extant and something that we are working towards. However, it is important that we ensure that, as part of our electricity baseload, we have access to the relevant energy sources so that we ensure this country's energy security. Given the situation with energy security in central Europe and, indeed, worldwide, that should be understood by everyone.

Alan Brown: If the Government allow the licensing of a new coalmine, how will that help energy security? The Minister has just committed to phasing out the use of unabated coal by October 2024, so, by the time a new coalmine is operational, it certainly will not add any energy security.

Andrew Bowie: The hon. Gentleman heard my answer to that very point. I do not think I need to labour it much more.

Dr Whitehead: Is the Minister saying that we should have access to those supplies in order to back the system up? And by the way, I do not think that tripping out, which came up a little while ago, was just about coal.

Alec Shelbrooke: It was a gas turbine.

Dr Whitehead: It was a gas turbine that tripped out. It was not about coal, as far as I understand.

Is the Minister saying that we should have access to those supplies until, but not after, 2024? We will not have anywhere to burn them after 2024 because the intention is to have phased out coal by then. What exactly is the Minister saying? By the way, coal is unlikely to be burned in a UK power establishment in the future, if such establishments survive.

Andrew Bowie: This is the Energy Bill, so I understand why the focus has been on energy and energy security. However, coal is not just required for energy purposes, and that is another reason why we will vote against the clause.

Mark Jenkinson: I have a constituency interest in a new coalmine in a neighbouring constituency in west Cumbria. Its planning condition is to produce metallurgical coal, which is used in steel plants. The Minister was recently in Sweden, as I was just a couple of months ago. We hear a lot about HYBRIT—hydrogen breakthrough ironmaking technology—which is a green steel project. I was relieved to hear that HYBRIT requires coking

[Mark Jenkinson]

coal, even in electric arc furnaces with direct reduced iron, and that it will continue to be used for some time. Does the Minister agree that we should not close off avenues for UK-sourced coking coal?

Andrew Bowie: I entirely agree with my hon. Friend. His expertise in the area, his experience in Sweden and his constituency interest have proved invaluable in ensuring that everybody is fully aware of the situation, the technology and, indeed, the science behind all of this.

Even when we phase out coal power stations, domestic demand for coal will continue in industries such as steel, cement and heritage railways, and that demand can be met by domestic resources on existing lines of deployment. A full prohibition of coal extraction, regardless of the circumstances or where that coal is going to be used—be that in steel, cement or a heritage railway—is likely to prevent extensions to existing operational mining, even where an extension would enable site restoration or deliver public safety benefits; cut across heritage mining rights in the Forest of Dean, which are important to its tourism offer; and, importantly, prevent domestic coal extraction projects from progressing that are seeking to supply industries that are still reliant on coal.

Andrew Western (Stretford and Urmston) (Lab): The Minister has set out a series of perceived advantages. On the flipside, the proposed new coalmine at Whitehaven would emit 9 million tonnes of carbon dioxide each year, so does he agree that that would have serious implications for our net zero ambitions?

Andrew Bowie: I very much question the figures that the hon. Gentleman has just put to the Committee. I stress that it is really important that we ensure that the industries in the United Kingdom that rely on coal are able to rely on a domestic source for that coal—British coal—and not on imports from overseas, which will actually increase carbon emissions.

Alan Brown *rose—*

Andrew Bowie: I give way to the hon. Gentleman.

The Chair: Order. May I just point out that some of these interventions are getting a little bit lengthy? We have a whole debate—one other Member has already indicated that she wants to speak—so colleagues can make speeches if they wish.

Alan Brown: I will be brief, Dr Huq. On the Minister's point, is it not the case that up to 85% of the coke that will be exported to the EU is coming out of coal in Cumbria? Does he agree with the figures of Lord Deben, the chair of the Committee on Climate Change, which state that the new Cumbrian coal mine will emit about 400,000 tonnes of CO_2 a year, equivalent to 200,000 cars being added to the road?

Andrew Bowie: Now I am getting confused, because I have some figures coming from over there and other figures coming from over there. It is important that we ensure that industries that rely on a source of coal are able to rely on domestic sources of coal. This clause, proposed by the Labour party, would prevent that from happening, harm future investment, harm jobs and harm our progress.

Katherine Fletcher (South Ribble) (Con): This is one of the most jaw-dropping moments I have ever had in my parliamentary career. The Scottish National party and the Labour party are arguing against domestic jobs, our proud coalmining heritage and energy security for this country. Is that not flabbergasting?

Andrew Bowie: I am actually close to speechless. Labour likes to describe itself as the party of the workers. Well, it is anti-workers, anti-jobs and anti-investment in British industry.

The Chair: Order. We should not stray too much from the clause.

Andrew Bowie: That is demonstrated by the clause, and that is why I believe that now is not the right time to make the changes suggested by the Labour party. We will oppose the clause.

Finally, I will address clauses 272 and 273 on community energy, which I also oppose. I recognise that several Members spoke in support of these clauses on Second Reading. However, the Government continue to believe that this is a commercial matter that should be left to suppliers, and further work is needed before considering whether primary legislation is needed.

In evidence submitted to the Committee and published on 13 June, Energy UK set out its in-principle support, much like the Government, for community energy, and recognised the role that it will play in our energy system. However, it asks that

> "these measures be removed to give the Government, the regulator, and the industry time to fully consider the best approach to integrating community energy effectively, protecting consumers and preventing additional costs being added to all consumers' energy bills on behalf of a currently small portion of the population."

Kerry McCarthy: Does the Minister accept that the wording inserted in the Bill by the Lords reflects the exact same wording of a private Member's Bill—I think it is the Local Electricity Bill—that more than 120 Conservative MPs previously pledged to support? I checked to see whether any members of the Committee supported that Bill, and apparently the hon. Members for Hyndburn and for West Aberdeenshire and Kincardine were among those 120 MPs. I think the rest of the Committee gets off the hook on that. Would the Minister like to explain why he has changed his mind?

Andrew Bowie: The hon. Lady is hearing me explain at great length why the position of the Government is what it is.

Clause 272 seeks a minimum export guarantee scheme. Community energy projects can already access power purchase agreements, which are arrangements for the continuous purchase of power over a given period with market-reflective prices. For example, Younity, a joint venture between Octopus and Midcounties Co-operative, already purchases electricity from more than 200 community groups of all sizes. It has PPAs of varying contract

lengths, from six months to five years. Renewable Exchange has also enabled more than 100 community projects to sell electricity via PPAs since 2018.

When we introduced the smart export guarantee, we consciously moved from a consumer-funded subsidy model to a competitive market-based system with cost-reflective pricing. That was in line with the vision to meet our net zero commitments at the lowest net cost to UK taxpayers, consumers and businesses. Introducing a fixed price would be a step backwards, as it requires all energy consumers to pay more than the market price for electricity to subside local communities that benefit from community energy projects. An electricity export guarantee indexed to the wholesale price is inconsistent with the Government's aim to decouple renewable generation from a wholesale price linked to the marginal cost, usually fossil fuel generation or gas. A static export price could also dampen price signals needed in the system, for example, in the use of intraday batteries.

History suggests that such a support scheme would have only a minimal impact on deployment. For example, deployment of community energy projects over the final five years of the much more generous feed-in tariff subsidy scheme was still very low. These projects are also typically more expensive than larger utility-scale renewable projects, with small solar and onshore wind projects between 50% and 70% more expensive. The proposal would be mandatory for suppliers with more than 150,000 consumers, and would therefore introduce a huge new administrative burden. Suppliers would face the additional one-off costs of putting in place process and IT infrastructure, as well as ongoing costs of managing the scheme, which would be passed on to consumers in higher bills. It is likely that it will disproportionately impact smaller suppliers, sitting just above the 150,000 customer threshold.

Similarly, on clause 273 it is the Government's view that a local tariff is unlikely to result in a better price for consumers. Suppliers would incur potentially significant costs in setting up and delivering the scheme. They would also have to recoup the additional costs, which we anticipate would be via the service fee and would therefore be recoverable only from local consumers. A small-scale low-carbon generator is also unlikely to guarantee a supply of electricity to local consumers at all times. Suppliers would have to buy additional wholesale energy to cover all local consumer demand, while continuing to charge for all other supply costs incurred. The local tariff would also need to reflect the export price paid to the generator. Presumably that is intended to ensure that local consumers benefit from cheaper export prices, but it would create an unintended outcome whereby higher export prices benefit the generator and increase the tariff price.

I hope that I have explained at length why I, as the Member for West Aberdeenshire and Kincardine, am espousing this position. I reassure the Committee that I am working with my officials to explore what other credible options are available to support the community energy sector. Indeed, work continues as we speak. We are taking these issues seriously, but for the reasons that I have provided I will oppose the clauses.

Alan Brown: The Minister says that he is working with his officials, but assuming that the Government majority on the Committee will reject clauses 272 and 273, what opportunity is there for mechanisms to be introduced to support local energy?

Andrew Bowie: As much as I know that we are all aghast at the thought of the Committee finishing and the Bill going back to the House, that will not be the end of our journey together. We will gather again on Report and Third Reading, so there will be ample opportunity for the hon. Gentleman to speak on the Bill at that stage, and for any changes that might be required to it.

The Chair: There is a drop-in session in room Q in Portcullis House at noon, but it is entirely voluntary.

Ordered, That the debate be now adjourned.—*(Joy Morrissey.)*

11.17 am

Adjourned till this day at Two o'clock.