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Abbreviation	**Party/Group**
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Monday, 19 October 2015.

Prayers—Read by the Lord Bishop of Southwark.

West Africa: Ebola
Question

2.36 pm

Asked by ***Lord Giddens***

To ask Her Majesty's Government how they assess the potential challenges of economic reconstruction in West Africa following the Ebola epidemic.

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Verma) (Con): My Lords, the UK has committed £54 million to kickstart the recovery in Sierra Leone, and is designing a £240 million programme to help drive sustainable economic growth. We will invest in the private sector and help to make transformative improvements in health systems and public services. We are co-ordinating with donors to ensure that the $5 billion committed towards regional recovery is delivered effectively.

Lord Giddens (Lab): My Lords, I thank the Minister for that response. I hope that all noble Lords will join me in sending warm words of support for nurse Pauline Cafferkey as she struggles for her life combating Ebola for the second time. What a tragic situation.

The Ebola epidemic has devastated the economies of the three main countries involved and destroyed their health systems. Huge investment is needed to pull them around. A good deal of this will have to come from the global community, and the IMF and the World Bank have made large promises of investment. How much of that is notional and how much is real, and how much money has actually reached the three countries affected so far?

Baroness Verma: My Lords, I join the noble Lord in wishing Pauline Cafferkey a speedy recovery. She is being remembered by all for the wonderful work she has done in Sierra Leone. On the noble Lord's question about the pledge, it is right that we as a country should continue with our supportive work and urge other donors who have committed to the $5 billion to step up and deliver. But as the noble Lord is aware, this work is going to take time. The three countries involved have suffered quite badly, but we can rest assured that the work we are doing with the President of Sierra Leone and through our own programmes is not the short-term application of a plaster and will ensure a long and sustainable recovery.

Lord Chidgey (LD): My Lords, I share the concerns of the House regarding the hoped-for recovery of nurse Cafferkey; we recognise the sacrifice she has made in the interests of the communities we are trying to support. Following the Ebola health crisis, studies for the Africa All-Party Parliamentary Group, which I co-chair, confirm the importance of community ownership of health systems and local empowerment through the development of effective community health workforces, together with the resources they need to protect themselves. The letter I received from the Secretary of State this morning appears to confirm that, although the United Kingdom addressed the shortage of health workers and health resources in Sierra Leone during the crisis, a sustainable, localised solution is still needed for the future. What provision is DfID therefore actively making in its forward programming for the long-term health and development assistance at community level that is essential to stabilising and growing local economies?

Baroness Verma: My Lords, the noble Lord is right to say that we need to work at many levels. The noble Lord, Lord Giddens, asked about the work and the commitment of major investors such as the International Monetary Fund. While this work must be done at several levels, I agree that we need to work at local level with civil society and local communities to ensure that they can recognise the situation and respond. The work we have done to date shows the effort we have put in trying to reach a zero rate of Ebola cases. It is important to note that this will be an ongoing, long-term recovery. We are one of the partner countries, and we have led on this issue in Sierra Leone. We now need to ensure that, at all levels, we commit to and retain sustainable, long-term development.

Baroness Hayman (CB): My Lords, I echo what was said about the long-term health consequences for survivors of Ebola here and in the countries affected. One thing that would help economic reconstruction would be the resumption of direct flights to Freetown from this country. Will the Government urgently reconsider their position on this issue? In February of this year, I saw for myself how much co-ordination was needed in the different areas of work to help in the fight at the height of the epidemic. Exactly that sort of co-operation will be needed for the long term. Can the Minister reassure me that the processes are in place to co-ordinate and complement the different agencies and government initiatives from this country that will be there for the long term?

Baroness Verma: My Lords, initially, the noble Baroness asked about direct flights. The Government introduced a ban on direct flights to Sierra Leone when the number of cases increased rapidly. We continue to keep the situation under review but, ultimately, the safety of the British public has to be at the heart of any decision on the resumption of flights. On greater collaboration, we are working closely with the President on his recovery strategy, and with other agencies on the ground.

Baroness Jenkin of Kennington (Con): My Lords, does my noble friend agree that it is important to learn lessons from this experience and that a greater focus on community mobilisation should be a key resource in controlling future outbreaks?

Baroness Verma: My Lords, we are learning lessons. We recognised that, initially, responses were slow but we are working very closely with organisations such as the World Health Organization so that we learn the lessons and can respond quickly—globally and internationally—and that the people on the ground and local communities can also respond quickly.

Baroness Kinnock of Holyhead (Lab): My Lords, does the Minister agree that women have been disproportionately affected by the Ebola crisis? They, of course, are the care givers, farmers, birth attenders, nurses and laundry workers. As a result, 60% of those who have died from Ebola in Sierra Leone, Guinea and Liberia have been women. What precisely are our Government doing to ensure that support for women is central to our efforts to help restore the protection of people from Ebola?

Baroness Verma: My Lords, the noble Baroness is absolutely right that the impact on women has been adversely greater socially and economically as a result of the crisis. Addressing the inequalities faced by women and girls will be central to our programming—from basic services to education and livelihoods. However, there is a lot of work to be done and, of course, we will work collaboratively with agencies on the ground to ensure that that happens.

Mental Health Services

Question

2.44 pm

Asked by ***Lord Patel of Bradford***

To ask Her Majesty's Government how they will improve mental health services, as outlined during Prime Minister's Questions on 16 September (HC Deb, col 1039).

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton): My Lords, the Government are committed to putting mental health on a par with physical health. We invested more than £120 million to introduce the first waiting times standards for mental health services from April 2015. We have expanded access to psychological therapies. Our crisis care concordat has ensured that we have halved the number of cases of people going through a mental health crisis being held in police cells.

Lord Patel of Bradford (Lab): The Minister gave three significant areas of development. First, on the investment to introduce the first waiting times standards for mental health services from April 2015, will the Minister say what the results of the waiting times standards have been in the first quarter, from April to June? Secondly, he mentioned the expansion of IAPT services, but as I understand it there is no ring-fencing for IAPT services. What evidence and assurance can the Minister provide that these services are being provided across the country, especially for children and young people?

Finally, the Minister mentioned the excellent crisis care concordat, which says that we have halved the number of people in crisis being held in a police station. He will be aware that just this June the CQC report said that people in mental health crises, even those who are suicidal, are not getting the care that they need in emergency situations. What assurances and steps are the Government taking to deliver care to those people in an emergency situation?

Lord Prior of Brampton: My Lords, very briefly on those three points, we will have the waiting time results for IAPT tomorrow. I will publish them in the Library and write to the noble Lord. On the ring-fencing point, the IAPT part of the £150 million extra spending on CAMHS is not ring-fenced, but the £150 million is in total. We will wait to see the results on how effective the IAPT spending is before we come to a final decision on how much should be spent on IAPT and on other parts of the care budget. On the noble Lord's third point, the CQC published its report, *Right Here, Right Now*, some six months ago. It found that things were getting better, but there was still far too much variation. By using that report and encouraging local crisis care concordat teams, we hope to address that variation.

Baroness Tyler of Enfield (LD): My Lords, given the current paucity of mental health services in meeting rising demand, will the Minister say what steps the Government are taking to ensure that money earmarked for mental health services is spent on mental health by clinical commissioning groups?

Lord Prior of Brampton: It is too early. I cannot give the noble Baroness specific figures for last year's spending, but we believe that they will show an increase of some £300 million over the year before. We have made it very clear to NHS England in the mandate that we expect spending on mental health services to increase this year and that every CCG in the country will see a real-terms increase in mental health spending compared with the previous year.

Lord Winston (Lab): My Lords, we are very grateful that money is being spent on waiting times, but will the Minister be kind enough to comment on a particular situation that occurred just a few weeks ago? The husband of a colleague of mine had a severe manic episode and was in a hospital casualty department for the best part of the day and the whole night, most of the time not being seen. He waited for two days before a bed could be found, not at that hospital, nor at his local mental hospital. Eventually, a bed was found some distance away. Does the Minister feel that that is satisfactory?

Lord Prior of Brampton: The noble Lord makes a very good point. It is totally unsatisfactory that beds are not available for people suffering a severe mental health crisis. However, looking at the research done by the noble Lord, Lord Crisp, it is not the number of

beds that is a problem, but the use of the beds we currently have. Far too many people still in in-patient beds could be treated outside. The answer is not more beds, but using the beds we have more effectively. I completely agree with the noble Lord. What he described I have seen myself. It is totally unsatisfactory.

Baroness Fookes (Con): My Lords, will my noble friend look very closely at mental health provision in prisons, where a disproportionate number of people have mental health problems? This is a matter of many years' standing.

Lord Prior of Brampton: The noble Baroness makes a very strong point that people with mental health problems who are in prison should be entitled to exactly the same care as people who are not in prison, and the extent to which that is not the case should be addressed. It is an issue that I will certainly take up outside the House.

The Earl of Sandwich (CB): My Lords, I am sure the Minister knows about the ill effects of many very common prescribed drugs, which can contribute to mental illness. I have experience of that in my own family. However, is he also aware that there are no significant government services for those mental health patients? Will he follow the lead of the BMA, which is preparing a document right now on that subject?

Lord Prior of Brampton: I am not aware of the report being prepared by the BMA but I will certainly be very interested in seeing it, reading it and discussing it with it.

Lord Bradley (Lab): My Lords, I declare my health interests. Although I welcome the ban on the use of police cells as places of safety for children under Section 136 of the Mental Health Act by July 2016, barely nine months away, does the Minister believe that the £50 million investment in health-based places of safety will be sufficient to achieve a similar ban on the use of police cells for adults and significantly reduce the thousands of adults who end up in accident and emergency departments each year under Section 136 at a time of severe mental crisis?

Lord Prior of Brampton: The noble Lord makes a very good point. Treating people in the right place is fundamental to any notion that we have of parity of esteem. He recognises the successful work that has been done with children, which we are hoping to replicate with adults. As part of the increased spending on mental health, we are also investing £30 million in liaison services in A&E departments, which is very important. A&E departments are not an appropriate place for people with a severe mental health crisis. Certainly, the evidence from *Right Here, Right Now*, by the CQC, indicates that people with such a condition are often treated extremely badly in A&E departments.

Social Care and Support: Funding

Question

2.52 pm

Asked by ***Baroness Wheeler***

To ask Her Majesty's Government what actions they propose to take to address the concerns about the availability of social care and support funding expressed in the joint statement *Spending Review 2015: a representation from across the care and support sector.*

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, social care is a priority for this Government, which is why we have established the better care fund to join up health and social care. We recognise that there are pressures on the system and we welcome the joint spending review representations from the care and support sector in helping us to understand these fully. The representations from the sector will help inform spending review decisions. The review will be announced on 25 November.

Baroness Wheeler (Lab): I thank the Minister for his response. I emphasise that this very stark submission to government represents the collective view on the deepening social care crisis from care providers, commissioners and national organisations from across the private, public and voluntary sectors. While understanding that the Minister will not pre-empt the spending review, will he at least reassure the House that, in making the very welcome decision to introduce the national living wage from April next year, the Chancellor fully recognises the estimated additional £2.3 billion cost of this for the social care sector? Does he honestly expect councils to be able to meet this cost if the scale of cuts made over the last five years continues into the future and the Government fail to provide any substantial extra funds?

Lord Prior of Brampton: As regards the position of the social care sector, "fragile" is putting it kindly. It is very difficult; there is no point making any bones about that. The increase in the living wage, which is long overdue and very welcome, will add to pressures on the sector. It was made very clear in the *Five Year Forward View* that the future of the healthcare system is very much tied up with the future of the social care sector. The noble Baroness can be assured that we have brought that to the attention of the Treasury and we are waiting for a favourable result in November.

Baroness Brinton (LD): My Lords, the social care sector is in a perfect storm, with councils having faced a 30% cut in their social care budgets as well as the increase in the national living wage which—much as it is welcomed—it is estimated will cost an extra £1 billion. I ask the Minister once again: will the Government commit to spending the extra £6 billion that they are saving by not implementing Dilnot and ring-fence that money to support the social care sector through this very difficult time?

Lord Prior of Brampton: I thank the noble Baroness for those comments. I do not recognise the size of the cut to which she alluded. The figures that I have seen indicate that in cash terms it has been broadly neutral over the last four years, representing a real-terms cut of probably more like 10%. However, I think we are cavilling over numbers here because I agree with her broader comments about the state of the social care sector. We have, indeed, noted the savings gained from the delay in implementing the Dilnot proposals, which have been brought to the attention of the Treasury.

Baroness Pitkeathley (Lab): My Lords, while I recognise the Minister's concern about the spending review, does he accept that the lack of proper provision of social care has a very profound effect on the rest of the economy? I offer as evidence a family carer to whom I spoke last week. She is a single mother. She looks after her mother, who has Alzheimer's, and a son with severe learning difficulties. She has been doing so for many years. She has been receiving two afternoons a week of respite care for the son and gets one day of daycare for the mother. This rather minimal provision has just about enabled her to cope. Both those services have now been withdrawn. I fear that she will have a breakdown because she is so distressed and under pressure. If she does, all three of those people will be a charge on the state. Will the Minister explain how that makes any kind of economic sense?

Lord Prior of Brampton: There is no doubt that what the noble Baroness says is true: the impact on other parts of the economy will be significant. It is also true that the impact on the healthcare system of reduced resources in social care will have an effect, which is why we are developing the better care fund and why we believe that more of the health and social care budgets should be pooled and used as one. Again, that is an integral part of the Five Year Forward View. At the risk of being boring, I am afraid that I will repeat myself: we will have to wait until the end of November before we know what the financial settlement is.

Lord Wills (Lab): My Lords, in view of the undoubted stringency of the forthcoming spending review, and all the pressures on social budgets we have just heard about, what words of comfort can the Minister give that care leavers, who are already an extremely disadvantaged group, will not be further disadvantaged as a result of all these financial pressures?

Lord Prior of Brampton: I think that the only word of comfort I can give is that in the long run we will have a well-funded social care sector and a well-funded NHS only if we have a successful and productive economy, and we will have a successful and productive economy only if we can get government borrowing back to where it needs to be and so can begin to eliminate the government deficit.

Lord Foulkes of Cumnock (Lab): My Lords, does the Minister not realise that he is not just a disinterested observer in this matter? He has admitted a 10% reduction, he has said that the sector is "fragile", and then he says that we have to wait until the settlement in November. What are he and his colleagues doing about saying to the Treasury, "This is a fragile sector. This is a sector that needs more money. This is a sector that is alarming many, many Members of the House of Lords", and getting those messages over to the Government?

Lord Prior of Brampton: What we are saying is that we have to fundamentally transform the health and social care sector so that it is fit for the kinds of patients living in today's society, not those living in, frankly, 1948.

Baroness Howarth of Breckland (CB): My Lords, it seems an extraordinarily unreal situation—the present circumstances that people find themselves in. Day after day, as the noble Baroness, Lady Pitkeathley, pointed out, we hear about people having their hours cut, people finding that they no longer have carers and local authorities having huge cuts in their budgets. What is the Government's plan if we do not get the settlement that we need from the spending review?

Lord Prior of Brampton: I am afraid that I can only repeat what I said earlier: our plan is for health and social care to become more integrated and for more budgets to be pooled, and that by doing so we can transform the care we deliver to the very vulnerable people in our society.

National Minimum Wage

Question

2.58 pm

Asked by ***Lord Haskel***

To ask Her Majesty's Government what assessment they have made of the financial impact on British business of the new minimum wage when it comes into effect in 2016.

The Earl of Courtown (Con): My Lords, the Government believe that the new national living wage is affordable, given the strength of the UK economy and labour market. We created 2 million jobs in the last Parliament and the OBR has forecast another 1.1 million by 2020. The Low Pay Commission will continue to play a critical role in setting the path for the national living wage to achieve a rate of 60% of median earnings by 2020, as recommended by Professor Sir George Bain.

Lord Haskel (Lab): My Lords, while welcoming the increase in the minimum wage, noble Lords will notice that the increase is much greater than the usual rise that results from rigorous and careful analysis by the Low Pay Commission, which studies the different regions and the different sectors of industry. What studies have the Government done as to the effect on jobs and the economy of their proposed increase,

or are we witnessing yet another example of the Government's irresponsible politicisation of pay and the minimum wage?

The Earl of Courtown: My Lords, the whole policy of this Government is to create the right environment for businesses to succeed and to create more jobs. In the previous Parliament, the main rate of corporation tax was cut from 28% to 20%. In this Parliament, the Government will go further and cut the rate of corporation tax to 19% in 2017 and 18% in 2020. These cuts will benefit over 1 million businesses. They will save businesses £6.6 billion by 2021 and give the UK the lowest rate of corporation tax in the G20, supporting investment, productivity and growth.

Lord Stoneham of Droxford (LD): According to the Institute for Fiscal Studies, those in work, on benefits and receiving tax credits will receive only 25% compensation through the advanced minimum wage, assuming that they keep their jobs. What advice are the Government giving to these hard-working families on how they should cope with this cut in their standard of living?

The Earl of Courtown: My Lords, the noble Lord is only too well aware of the issue, since he was part of the party that joined us in coalition in the previous Government that reduced claimants of tax credits from nine out of 10 families to six out of 10 families. The fact is that we are doubling free childcare for working parents—we are giving 30 hours of free childcare—and we are also introducing tax-free childcare from 2017.

Baroness Wheatcroft (Con): My Lords, one of the perverse effects of tax credits was to encourage people to work only part-time. As the Minister pointed out, this economy has created a remarkable number of jobs. Is it not a fact that many of those who will be suffering if their tax credits are cut will be encouraged and helped to find full-time work?

The Earl of Courtown: My noble friend makes some good points. Recent employment figures show the greatest number of people ever in work. We have more young people in work and we have more women in work.

Lord Morris of Handsworth (Lab): My Lords, the new minimum wage, as well as the living wage, is causing some confusion in industry, given that one is statutory while the other is advisory. Will the Government consider asking the Low Pay Commission to lead a discussion to ensure that a new social living wage emerges?

The Earl of Courtown: My Lords, the noble Lord mentions both the national minimum wage and the national living wage. The adult rate of the national minimum wage, as the noble Lord is no doubt aware, increased by 3%—the biggest real increase since 2006. The noble Lord also mentioned the national living wage. This becomes statutory from 2016.

The Lord Bishop of St Albans: My Lords, while welcoming the Government's moves to look at the level of wages as the Minister has mentioned in terms of the minimum living wage, I am aware that the Resolution Foundation is concerned about very small businesses—those that employ fewer than 10 people. Its research indicates that this is likely to add roughly 1.5% to wage bills. What are Her Majesty's Government doing to mitigate those effects—for example, by cutting red tape and by offering extra assistance to boost productivity—so that we can look forward with confidence to the Government's wishes being delivered?

The Earl of Courtown: My Lords, we are continuing to look at all matters that affect small and medium-sized enterprises. As I understand the current situation, national insurance contributions are being cut for those that employ four people or fewer.

Lord Stevenson of Balmacara (Lab): Will the Minister join me in condemning the actions of the employer of 14 cleaners working at the Foreign and Commonwealth Office, who appear to be facing disciplinary action because they had the temerity to write a letter of congratulation to the Foreign Secretary on his reappointment and mention in it their rates of pay?

The Earl of Courtown: My Lords, a good lesson to learn is always to check the newspapers before you come to the Dispatch Box. The Foreign and Commonwealth Office is in the process of vacating the Old Admiralty Building, which has reduced the number of cleaning staff required. The department has not taken any disciplinary measures against any cleaning staff. Our contractor Interserve has assured us that no one has been made redundant as a result of a letter asking for an increase in pay. From April 2016, all Interserve staff will benefit from the new mandatory national living wage.

Lord Forsyth of Drumlean (Con): My Lords, on the subject of reading the newspapers, has my noble friend read the excellent article in today's *Telegraph* by Boris Johnson, in which he says that, as a result of a decision in Europe, employers are going to have to pay for travelling time from the moment people leave for their place of work? Can this possibly be true? Can it also be true that Ministers are not in a position to do anything about that?

The Earl of Courtown: My Lords, I am afraid I did not read the Mayor of London's article in the *Daily Telegraph*. However, I can tell my noble friend from my own experience of employing people in an SME that we did pay people for their travelling time to and from work.

Baroness Farrington of Ribbleton (Lab): Is it not the case that many carers need to be paid for their travelling time? The dismissive attitude about this being another European gimmick is appalling for those people.

The Earl of Courtown: My Lords, the noble Baroness raises a question of social care. The overall costs of providing social care and the travelling issue are being

[The Earl of Courtown]
considered as part of the spending review. We are working with the social care sector, including with care providers from the voluntary sector, to understand how the introduction of a national living wage will affect them.

Energy Bill [HL]

Order of Consideration Motion

3.07 pm

Moved by ***Lord Bourne of Aberystwyth***

That the amendments for the Report stage be marshalled and considered in the following order:

Clauses 1 and 2, Schedule, Clauses 3 to 69, Title.

Motion agreed.

Energy Bill [HL]

Report (1st Day)

3.07 pm

Relevant documents: 6th and 7th Reports from the Delegated Powers Committee

Clause 2: Transfer of functions to the OGA

Amendment 1

Moved by ***Lord Bourne of Aberystwyth***

1: Clause 2, page 2, line 19, leave out paragraph (c) and insert—

"( ) for anything done by or in relation to a Minister of the Crown in connection with any functions transferred to be treated as done, or to be continued, by or in relation to the OGA, and

( ) about the continuation of legal proceedings."

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, before I speak to the government amendments to this part of the Bill, I thank noble Lords and others for their valuable contributions to the Bill.

Climate change is a threat to the environment, to our security and to our economic prosperity, and we are determined to tackle it. The Government will decarbonise the economy and will do so cost-effectively. A global deal is the only way both to deliver the scale of action required and to drive down the costs of climate action, so Paris this December is the opportunity to open up new avenues for low-carbon industries. The Government's energy priorities are clear: keeping bills as low as possible for families and businesses; and powering the economy while decarbonising in the most cost-effective way.

Today, we are discussing amendments to the part of the Bill dealing with the Oil and Gas Authority. The United Kingdom oil and gas industry is of national importance and makes a substantial contribution to the United Kingdom's economy, energy security and employment. This is compatible with our climate change targets. The 2011 carbon plan noted that Britain will still need significant oil and gas supplies while we decarbonise our economy and transition to a low-carbon economy. Any oil and gas that we do not produce ourselves has to be imported, resulting in additional transport costs and emissions. Maximising recovery, in terms of increasing both the levels and efficiency of production of the United Kingdom's oil and gas, will help maintain security of supply as well as boost growth and jobs.

I was pleased to host a meeting in the House a couple of weeks ago with the noble Baroness, Lady Worthington, and the noble Lords, Lord Oxburgh and Lord Howell, to talk about the Oil and Gas Authority and its role in relation to carbon storage. We were joined by Professor Stuart Hazeldine of the University of Edinburgh and Andy Samuel, chief executive of the Oil and Gas Authority. This was an informative and useful discussion. Professor Hazeldine's immense knowledge of carbon capture and storage was clear, and it was also clear that Andy Samuel, his team at the Oil and Gas Authority and the industry have CCS very much in mind as they plan for the future. Indeed, Andy Samuel committed that CCS will feature across the Oil and Gas Authority's sector strategies.

There is a developing consensus on how the OGA will contribute to carbon capture and storage. I hope that we can continue this engagement and that through a collective effort we can drive this technology towards commercial implementation. We shall come on to talk about carbon capture and storage later today.

The Bill is consistent with the Government's aims on climate change. We are committed to meeting our target to reduce greenhouse gas emissions by at least 80% by 2050, and it will be a priority for this Government to achieve an ambitious global deal on climate change. Once again, I thank noble Lords and others who have contributed to the Bill so far, and I look forward to a good debate today.

I now speak specifically to the first group of government amendments, which make provision for the transfer of staff and property to the Oil and Gas Authority and amend the schedule to the Bill in respect of the MER UK strategy and decommissioning. Amendment 1 amends Clause 2, which relates to the transfer of functions to the OGA, so that it is clear that regulations may make provision so that anything done by or in relation to a Minister in connection with any functions transferred is to be treated as done by the OGA. Because Amendment 3 confers on the Secretary of State the power to make the transfer scheme for the transfer of property rights and liabilities, the amendment makes the power in Clause 2 consistent with the transfer scheme power. It also makes provision so that it is clear that regulations made by the Secretary of State which are consequential on the transfer of functions may include provision for the continuation of legal proceedings. This mirrors the provision contained in the transfer scheme for property rights and liabilities.

Amendment 2 ensures that the definitions used in Clause 2 also apply to the new clause inserted by Amendment 3. Amendment 3 introduces a power for the Secretary of State to create transfer schemes enabling

the transfer of property rights and liabilities from the Department of Energy and Climate Change to the OGA. This will enable property, including intellectual property, to be transferred to the OGA. It will also enable rights and liabilities under contracts to be transferred to the OGA. This is a standard provision where a new body is being established to which functions of the Secretary of State will be transferred. The transfer scheme will not cover the transfer of statutory functions from the Secretary of State to the OGA or functions under petroleum licences, for example. These functions will be transferred by way of regulations under Clause 2.

Amendment 4 introduces a general power for the Secretary of State to create transfer schemes to enable the transfer of staff from the Department of Energy and Climate Change to the OGA. As a result of the transfer of functions, civil servants currently employed by the OGA as an executive agency of DECC performing the relevant functions will be required, unless they object, to transfer along with those functions to the government company. We are committed to protecting staff conditions, and the transfer schemes will therefore ensure the same or similar protection to that afforded by the TUPE regulations. OGA management will work closely with the relevant unions and keep staff informed as the transfer schemes are developed. These transfer schemes will ensure that the OGA has the necessary skilled and experienced staff to perform its functions as an independent regulator. In addition to transferring existing staff, the OGA is conducting an extensive external recruitment campaign to ensure that the organisation has the right level of skills and expertise to perform its role as a more robust and proactive regulator.

Amendment 5 is to enable a scheme made by the Secretary of State for the transfer of property rights and liabilities or staff to the OGA to be modified, subject to the agreement of the person or persons affected. It also ensures that certain incidental, supplementary, consequential, transitory and transitional provision can be made in those schemes. This is a standard provision to be included in a power to make transfer schemes of this nature. It ensures that transfer schemes may be modified—for instance, where particular members of staff leave all new contracts are entered into in the transitional period. It also clarifies that the schemes may be detailed and make provision specific to individual cases, such as staff members with specialist allowances or the details of particular IT or property contracts.

3.15 pm

Amendment 6 will allow civil servants who transfer to the OGA continued access to either the Principal Civil Service Pension Scheme or the new alpha pension scheme, which was introduced in April 2015 and, in some cases, both schemes, depending on the date when they joined the Civil Service and their anticipated date of retirement. This is part of our commitment to ensuring that staff retain their current terms and conditions on transfer to the OGA. The amendment will also ensure that non-civil servants recruited by the OGA have access to the alpha scheme in future, which will avoid having a two-tier workforce, whereby new joiners work alongside existing employees but with different pension benefits, with a view to encouraging recruitment of staff to the OGA.

Amendments 8 and 9 amend the schedule to the Bill, reinstating the obligation on the Secretary of State to act in accordance with the strategy to maximise economic recovery of UK petroleum when exercising her functions under Part 4 of the Petroleum Act 1998, which sets out provisions on the abandonment of petroleum infrastructure, in so far as they relate to the reduction of costs, and slightly tweak the scope of those obligations. Section 9B(b) of the Petroleum Act 1998 currently imposes a duty on the Secretary of State to act in accordance with the strategy when exercising functions under Part 4 to the extent that they concern reduction of the costs of decommissioning. However, paragraph 3 of the schedule to the Bill as introduced amends Section 9B so that the duty is transferred to the OGA on Royal Assent.

It is of vital importance that all parties to the decommissioning process, including the Secretary of State and the OGA, act in accordance with the strategy when carrying out their respective roles. As such, to ensure that the Secretary of State remains under an obligation to act in accordance with the strategy, Amendment 9 introduces a new section which reimposes the duties with minor modifications. These amendments also slightly modify the duty that will be transferred to the OGA under Section 9B(b) to ensure that the OGA's duty to act in accordance with the strategy when exercising its new functions under Part 4 is not limited to the reduction of costs but will include all the aspects of its new functions under the revised Part 4. I beg to move.

Lord O'Neill of Clackmannan (Lab): My Lords, perhaps the Minister could tell the House why the provisions in these amendments, which all seem to be worthy and sensible, were not included in the original wording of the Bill. That would have saved us a great deal of time, because I do not think that any of us are going to complain about any of them. Equally, the additional information should have been taken account of when the Bill was drafted. I do not want to take any more time, because I am accusing the Government of wasting our time by doing this now when we could have had these provisions in the Bill at First Reading.

Lord Foulkes of Cumnock (Lab): My Lords, my noble friend makes a very important and relevant point. This illustrates a great feature of this Bill, which is that we are having foisted on us all sorts of detail at short notice and at the last minute. As my noble friend said, this kind of thing should have been included in the original Bill. If it is true, as the Government claim, that they had planned this and that it is all included in their manifesto—that they had thought a lot about it and they knew exactly what they were up to—it ought to have been included in the original Bill. It is clear that they did not know what they were up to. We found this the other day when the Bill was recommitted, when we looked at pages and pages of detail that were foisted on us at the last minute. As I understand it, we still do not know some of the amendments that we are

[Lord Foulkes of Cumnock]
going to be discussing and approving, or otherwise, in two days' time—major amendments with huge implications.

The Minister took a little bit of umbrage in Committee, but I do not blame the Minister personally. I would say he is piggy in the middle, except that we must not use that kind of expression anymore; he is the meat in the sandwich—you know what I mean—and is getting squeezed. He is between the devil and the deep blue sea—I am trying to think of metaphors that do not bring in animals. We are rightly demanding more details and advance notice; the industry, even more so, should know well in advance exactly what the Government's intentions are. It is really quite unacceptable that such important things are dealt with at short notice on Report. No doubt even more will come in at a later stage in the other place.

That raises the question of why the Bill was commenced in the House of Lords. My understanding is that only non-contentious Bills are dealt with first in the House of Lords, but this is one of the most contentious Bills that has been considered for some time as a House of Lords starter. An unfortunate result is that we are having so much debate and discussion at this early stage. The Bill has to go to the House of Commons where, no doubt particularly in relation to things that affect Scotland, there will be some even more acrimonious debate and amendments will be proposed, and then the Bill will come back to us. This is really going about it in a cack-handed way.

In relation to staff who are being transferred, what happens to those who are required to move as part of the new arrangements? How many will be asked to move from one part of the United Kingdom to another? Will there be any? Will there be many? It is very important that we should know that. If there are some, we should know exactly how they are being treated and whether they will be helped with their removals from one area to another and be given other assistance in relation to that. For example, if they are moved from a rural area in the United Kingdom to London, their expenses will be far greater. If they are moved from England to Scotland, there are important implications in relation to the differences between provisions in one part of this United Kingdom and the other. It would be very helpful if the Minister in his reply can indicate the situation with regard to staff moving between different parts of the United Kingdom.

Lord Howell of Guildford (Con): My Lords, I fully understand why these amendments are necessary, because we are dealing with the setting-up of a gigantic and very important new authority. The usual problems of pensions and the transfer of staff are major administrative problems and inevitably they always require some adjustment and amendments in legislation.

We are dealing with a rapidly changing world situation and national situation. At this moment, thousands of people are being laid off in the North Sea and North Sea-related firms. The industry is under immense pressure. It has even been described as one of the worst crises facing the North Sea industry since the high days of the 1970s, 1980s and 1990s. Are any of the amendments relevant to this enormously changing scene? What account is being taken, even while we are taking this Bill through Parliament, of the immense blows inflicted on the North Sea by the prospect of far lower oil prices for a long time to come combined with many other difficulties? A newspaper yesterday said:

"North Sea oil producers face a perfect storm".

There are difficulties and challenges that they have never had to face before. Over the years, costs have been allowed to rise, and suddenly revenues have collapsed. Will the Minister explain what, if any, changes in the Government's mind were triggered by the fact that we are dealing with a situation that has totally changed since the Bill was first printed and which, if any, of these amendments relate to that? That would be very helpful.

Baroness Liddell of Coatdyke (Lab): My Lords, it seems to be "Kick the Minister" time, but I do not particularly want to do that, since I know how he feels—I once had to take through a utility Bill that ended up with 1,000 amendments. However, I think everyone would acknowledge that this Bill has been a bit of a dog's breakfast.

Further to the points made by the noble Lord, Lord Howell, the uncertainty facing the North Sea oil and gas industry is considerable at the moment, and there is speculation about perhaps another 10,000 jobs being marked to disappear. I ask the Minister to get some indication of certainty about what is going to happen about the OGA. We cannot go on with this miasma of uncertainty, with changes to amendments and perhaps even further amendments going through to the House of Commons, at a time when there is such a feverish atmosphere around the North Sea.

While I am on the issue of uncertainty, is the Minister aware of the comments by Professor Jacqueline McGlade from the United Nations this morning about the impact of uncertainty on those who are investing? She was talking primarily about the renewables industry, but it also has an impact on oil and gas, particularly in relation to decommissioning.

Lord Teverson (LD): My Lords, I echo the comments by the noble Lords, Lord O'Neill and Lord Foulkes, surrounding the tsunami of amendments that we have had to the Bill so far, with more to come on Wednesday, with very little notice indeed. That makes it very difficult for this House to do what it sees as its core activity in this sort of legislation.

I have no issue at all with the managerial nature of the amendments, but I echo the comments by the noble Baroness, Lady Liddell. While I agree wholeheartedly with the Minister that the key factor here is that we should be able to continue to benefit from our own oil rather than import it, which is important with regard to both energy security and the environment, I hesitate more and more as we go through these energy conversations when it comes to the Minister's and the Government's confidence about our ability to meet our own climate change targets, which we all passed into law with the Climate Change Act with cross-party agreement in this House and the other place, and which we all still say we support.

We are far from being able to be confident about achieving those targets a few years hence, let alone by 2050. We have to look at all these debates on Report as part of that challenge, whether it is from the United Nations special scientific advisers or from our own Committee on Climate Change. The writing is on the wall that we are moving in the wrong direction, and I think that we should take this concern very seriously.

Baroness Worthington (Lab): My Lords, I am grateful to the Minister for his introductory comments. As we start the first day of Report on the Bill, it is welcome to hear from the Government a reiteration of their commitment to action on climate change and to decarbonising the UK economy.

I add my voice to those of noble Lords who have spoken ahead of me in reflecting on the way in which the Bill has been conducted. I am probably not alone in not having had much of a weekend; I am sure that the Minister has had similar issues to deal with. I take these issues incredibly seriously, as people know, and it makes me genuinely unsettled and discomfited to know that I am not able to do the best job that I can because of the timescales that we are working under. I think that many noble Lords share that feeling. As I have said before at the Dispatch Box, we are where we are—but it could have been so different.

In these opening comments on Report, I want to reflect on the question of why we are making such haste. Why is such an important body as the OGA being created in such a piecemeal way, with amendments coming forward and new issues arising in a very febrile and fast-changing environment? There seems to be no time for the Government to take stock and review. It is because the timing of the Bill is not about the major portion of it, which is the OGA, but Clause 66 which closes the RO a year early. It was closing anyway in 2017, so we are in rather a rush to make that deadline in order for this not to be a complete waste of our parliamentary time. That is why we are racing through. That is why we have not had enough pre-legislative scrutiny and why there are so many fundamental issues that have not been properly addressed in Committee. That is why we are facing an inundation of amendments now. It is a very regrettable situation and one that I personally take very seriously, as I am sure the Minister does, too. I only wish that perhaps people in other parts of the Government took this issue as seriously as those who are represented here today, because it is not good enough.

3.30 pm

Turning to the amendments that we have begun to discuss under the first grouping, we should remind ourselves that Clause 1 of this Bill begins by creating a limited company that shall be named the Oil and Gas Authority. The words that are used in relation to the OGA often describe it as a regulator or a body that is there to do a job for government, yet when you look at its legal structure it is a private company in which there is only one shareholder—the Government. That is a very odd structure for a regulator. A private limited company with one shareholder is not—to my knowledge—the usual way to set up a regulator whose job is not simply to disburse funds but to engage in activities on behalf of the department to oversee a very complex and rapidly changing environment in the North Sea. That is where my disquiet really resides. It is not clear what this body is being set up to do: nor is it clear why the Government have chosen this particular legal structure.

This is illustrated by Amendment 6, one of the amendments that the Minister has tabled today. Here we are being asked to agree that the staff of this body should have access to Civil Service pensions and compensation packages. I will just reread part of Clause 1(2), which states that,

"the Oil and Gas Authority is not to be regarded as acting on behalf of the Crown, and … its members, officers and staff are not to be regarded as Crown servants"—

because of course this is a limited private company with one shareholder. The Minister alluded to the fact that this is a body that will be going out to recruit new members of staff and will be hoping to attract the best in industry. What will the remuneration packages be for those staff? If this body is not to be seen as a representative of the Crown and its staff are not Crown servants, is it free to set whatever remuneration packages it wishes or will it be governed by the remuneration packages of civil servants? In government Amendment 6, however, we are being told that despite not representing the Crown or being civil servants, staff will have access to the pension schemes—which seems to reopen the idea that maybe it is in fact a regulator that is seen as an arm of the Government.

I suspect that the answer to my disquiet and questions is all to do with how the Treasury is currently overseeing its budget spend commitments and that the desire is that this should be off balance sheet and therefore that the expenditure or costs or activities will not be counted towards government spending. I am asking the Minister: what is the rationale for this legal structure and what will the status of the staff be? It certainly cannot be the case that on the one hand you are allowed to offer private sector salaries to attract the best in the industry while on the other you are also able to offer Civil Service pension provisions.

We will get on to the primary objective of the OGA a little later, in the fourth group, but my fundamental concern is that it is not at all clear why this body is being established, or that it is fit for purpose. The amendments in this group appear on the surface to be rather administrative yet they touch on a very real issue: is this a regulator? Should it be considered as a non-departmental public body or is it, in fact, a body that is being created with the potential to be privatised and sold off in the future? That would lead to a very different discussion and to a whole host of other concerns being raised by noble Lords scrutinising this legislation.

The Minister might say, "That is mere speculation, and why would the Government seek to set something up in public statute and then privatise it?". I simply remind Members of the House that we have had exactly that situation with the Green Investment Bank, and this week we will see amendments brought forward which will mean that the Green Investment Bank will be changed by primary legislation so that it can be

[Baroness Worthington]
privatised. Therefore it is not too much of a conspiracy theory to think about the future of the OGA and where it might be going and to ask the Minister to give us complete reassurance that this is intended to be a regulator and to remain something of which the Government have oversight, and that the single share that they own will not be diluted nor sold to the private sector. I would like to hear that reassurance from the Minister today.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords for their contributions. I will try to deal with the issues that have been raised. First, it is true that the Government have tabled many of the amendments before us, but I would argue that the most of them, certainly in this group, are technical. The nature of business means that some House of Lords legislation has to start in this place, and we should rejoice in that rather than think it should not happen. The noble Lord, Lord Foulkes, seemed to suggest that a lot of what we are looking at today regarding the Oil and Gas Authority is controversial. I do not agree, but I accept that some of the stuff we will look at on Wednesday is more controversial.

I take the points made by the noble Lords, Lord O'Neill, Lord Foulkes and Lord Teverson, and the noble Baroness, Lady Liddell. It is true that we have brought forward amendments, but it has to be said that this is a complex area and we are setting up a pretty substantial body. In seeking to allay the fears of the noble Baroness, Lady Worthington, I hope she will accept that I have no part in any conspiracy, and if this were not setting up a regulator, I would be very concerned. The first time I heard the word "privatisation" mentioned was by the noble Baroness, so I hope that she will accept that there is no such intention at all.

Baroness Worthington: The last time this legal form was used to create an agency was when the Highways Agency was created, and at the time numerous articles stated that this was a very convenient way to allow a future Government to privatise it. Therefore, there has been a previous discussion about this form of legal construct and this issue has been raised in that context. In addition, it is true that in the current form there would be nothing to stop the Government privatising without returning to Parliament to seek its approval.

Lord Bourne of Aberystwyth: I hope the noble Baroness will accept that that is not the intention. She also asked if there were other precedents. There are: the Prudential Regulation Authority is an example of a limited company that is a regulator.

Let me deal with some of the specific points that were raised. First, I reassure the noble Lord, Lord Foulkes, that I certainly did not take umbrage last week. I pointed out that, as was the case, I had been asked to seek an extra day in Committee and had been unable to get another day in Committee in the House. I offered a recommittal in the Moses Room to opposition parties, Cross-Bench Peers and Peers on my own side and had only one objection, from the noble Lord. I hope he will accept that. However, I certainly did not take umbrage.

My noble friend Lord Howell mentioned the immense pressure and the changing position. That is certainly true, but it underlines the importance of managing to secure this legislation, and the prime objective of maximising economic returns from the North Sea is very much in the interests of all parts of the United Kingdom and in the interests of decarbonisation. Therefore, I am not sure that I accept the underlying thesis of one or two contributions from noble Lords—that there is no urgency about this legislation. It is important, and there is an urgency attached to it. I accept the point about investment certainty and we have that very much in mind, as well as the need to ensure that we have a consensus at least on this part of the legislation. That would be of great importance for the industry, for our decarbonisation plans and for securing the best economic return from the North Sea.

I was asked about issues relating to the contracts of employment and whether these people would be civil servants. To address some points made by the noble Baroness, Lady Worthington, and the noble Lord, Lord Foulkes, many people will be transferred from the government service and it is entirely right that they can expect to see their conditions of employment continue in the same way as previously. It is obviously the desire to ensure that we have a scheme analogous to TUPE. I believe that they are also entitled to the same pension arrangements, and that is why these pension arrangements are in place. I do not know of any cases of employees who will be required to move. I think it is unlikely because the people who will be transferred will be in London and Aberdeen—the great bulk of them in Aberdeen. If any are to be moved, I will ensure that the noble Lord gets a response, copied to other Peers, but I suspect that it will be on the existing terms, because that is the aim with the transfer of staff.

On future staff, we felt it right that there should be only one set of pension arrangements, which is why the current arrangements will continue. Of course, there will be the freedom to operate them so that the OGA can recruit as it sees fit in the future. However, as I say, the current pension arrangements will continue so that there is not, as it were, a two-tier system going forward.

Baroness Worthington: So the Minister is happy to have a two-tier system for remuneration but not for pensions. It seems rather odd to insert a clause that carries forward many of the benefits of Civil Service remuneration packages for all employees—the Minister said that it could be for new employees, too—yet we are going to unlock the salary levels at the same time. This seems very imprudent.

Lord Bourne of Aberystwyth: We are setting up a separate body. The analogy the noble Baroness is pursuing is not perfect. Obviously, there are variations in salary at the moment, as there would be going into the future. The OGA will be given some operational freedom because we have set up a separate entity,

which I think is entirely sensible. As I understand it, since the pension scheme operates on a percentage basis, that, too, would be variable. Essentially, it will be the existing one, and I think that is wholly defensible.

I believe that I have dealt with the relevant points. If I have missed any, I apologise, and I will pick them up after I have looked at the record. With that, I commend these amendments to the House.

Lord Hope of Craighead (CB): I return to the point, which I believe the noble Baroness, Lady Worthington, responded to, of an apparent inconsistency between Amendment 6, which we have just been discussing, and Clause 1(2)(b), which says that

"members, officers and staff"

of the Oil and Gas Authority,

"are not to be regarded as Crown servants".

There is a difference between somebody who is a Crown servant for the purposes of the law and somebody who is being paid as a civil servant. I cannot put my finger precisely on the point, but it would be helpful to be reassured that there is no such inconsistency, which, at first sight, rather springs off the page when you read these two provisions side by side.

Lord Bourne of Aberystwyth: I thank the noble and learned Lord. It is my understanding that there is no inconsistency. We are seeking to ensure that these people are treated in an analogous way where there is a transfer of staff and that they are not, going forward, civil servants, as I understand it.

Amendment 1 agreed.

Amendment 2

Moved by ***Lord Bourne of Aberystwyth***

2: Clause 2, page 2, line 25, after "section" insert "and section (Transfer of property, rights and liabilities to the OGA)"

Amendment 2 agreed.

Amendments 3 to 6

Moved by ***Lord Bourne of Aberystwyth***

3: After Clause 2, insert the following new Clause—

"Transfer of property, rights and liabilities to the OGA

(1) The Secretary of State may make one or more transfer schemes transferring qualifying property, rights and liabilities of a Minister of the Crown to the OGA.

(2) A scheme made under this section may, in particular, make provision—

(a) for anything done by or in relation to a Minister of the Crown in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the OGA;

(b) for references to a Minister of the Crown in any agreement (whether written or not), instrument or other document relating to property, rights or liabilities transferred by the scheme to be treated as references to the OGA;

(c) about the continuation of legal proceedings;

(d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;

(e) for transferring property, rights or liabilities irrespective of any requirement for consent which would otherwise apply;

(f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;

(g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;

(h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;

(i) for apportioning property, rights or liabilities;

(j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;

(k) for requiring the OGA to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.

(3) Subsection (2)(b) does not apply to references in an enactment or a relevant authorisation.

(4) In this section—

"property" includes interests of any description, and

"qualifying property, rights and liabilities" means property held, and rights and liabilities arising, in connection with functions which were functions of a Minister of the Crown and as a result of this Act have or are to become functions of the OGA, but does not include rights and liabilities relating to an individual's employment in the civil service of the State."

4: After Clause 2, insert the following new Clause—

"Transfer of staff to the OGA

(1) The Secretary of State may make one or more transfer schemes under which persons who hold employment in the civil service of the State become employees of the OGA (but this is subject to any provision contained in the scheme that allows a person to object to becoming an employee of the OGA).

(2) A scheme made under this section—

(a) may make provision for giving full effect for a person's transfer into the employment of the OGA as a result of the scheme, and

(b) may (in particular) include provision that is the same as, or similar to, the provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (whether or not those regulations would otherwise apply in relation to the transfer)."

5: After Clause 2, insert the following new Clause—

"Transfer schemes: supplementary

(1) A scheme made under section (Transfer of property, rights and liabilities to the OGA) or (Transfer of staff to the OGA) may—

(a) contain incidental, supplementary and consequential provision;

(b) make transitory or transitional provision or savings;

(c) make different provision for different purposes;

(d) make provision subject to exceptions.

(2) Subject to subsection (3), the Secretary of State may modify a scheme made under section (Transfer of property, rights and liabilities to the OGA) or (Transfer of staff to the OGA).

(3) If a transfer under the scheme has taken effect, any modification under subsection (2) that relates to the transfer may be made only with the agreement of the person (or persons) affected by the modification.

(4) A modification takes effect from such date as the Secretary of State may specify; and that date may be the date when the original scheme came into effect."

6: After Clause 2, insert the following new Clause—

"Pensions

(1) The persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include the employees of the OGA.

(2) Accordingly, in Schedule 1 to that Act (employment to which superannuation schemes may extend), in the list of other bodies, at the appropriate place insert—

"The Oil and Gas Authority."

(3) The employees of the OGA are to be treated for the purposes of paragraph (1)(b) of regulation 3 of the Public Service (Civil Servants and Others) Pensions Regulations 2014 (S.I. 2014/1964) as persons—

(a) to whom the scheme established under that regulation may potentially relate by virtue of paragraph (2) of that regulation, and

(b) in respect of whom the Minister for the Civil Service has made a determination under section 25(5) of the Public Service Pensions Act 2013.

(4) The OGA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to this section in the sums payable out of money provided by Parliament under the Superannuation Act 1972 and the Public Service Pensions Act 2013."

Amendments 3 to 6 agreed.

3.45 pm

The Schedule: Transfer of functions to the OGA

Amendment 7

Moved by ***Lord Bourne of Aberystwyth***

7: The Schedule, page 41, line 4, at end insert—

"Energy Act 1976

A1 The Energy Act 1976 is amended as follows.

A2 (1) Section 12 (disposal of gas by flaring, etc) is amended as follows.

(2) After subsection (2) insert—

"(2A) Disposal of gas by flaring, or by releasing it unignited into the atmosphere, does not require consent under this section if consent—

(a) is required under section 12A (disposal of gas by flaring etc: OGA's functions), or

(b) would be required under that section but for subsection (3) of that section."

(3) At the end of the heading insert ": Secretary of State's functions".

A3 After section 12 insert—

"12A Disposal of gas by flaring, etc: OGA's functions

(1) The OGA's consent is required for natural gas to be disposed of (whether at source or elsewhere)—

(a) by flaring, or by releasing it unignited into the atmosphere, from anything that for the purposes of section 82(1) of the Energy Act 2011 is a relevant oil processing facility or a relevant gas processing facility, or

(b) by releasing it unignited into the atmosphere in connection with activities carried out under a licence granted under—

(i) section 3 of the Petroleum Act 1998, or

(ii) section 2 of the Petroleum (Production) Act 1934.

(2) This section applies to all natural gas of the United Kingdom, whether obtained there or in territorial waters, or in areas designated under the Continental Shelf Act 1964, except gas conveyed through pipes to premises by a gas transporter within the meaning of Part 1 of the Gas Act 1986.

(3) Disposal of gas does not require consent under this section if—

(a) it is necessary in order to reduce or avoid the risk of injury to any person,

(b) the risk could not reasonably have been foreseen in time to reduce or avoid it otherwise than by means of the disposal, and

(c) it was not reasonably practicable to obtain consent under this section in the time available.

(4) A person who disposes of gas in cases where the consent of the OGA would have been required but for subsection (3) must inform the OGA of that disposal as soon as practicable after the disposal takes place.

(5) The OGA's consent under this section—

(a) may be given only by reference to particular cases, and

(b) may be made subject to conditions which may, in particular, be framed by reference to the description or origin of the gas, or the quantities to be disposed of.

12B Sanctions for failure to comply with section 12A

(1) The requirements imposed by subsections (1) and (4) of section 12A are to be treated for the purposes of Chapter 5 of Part 2 of the Energy Act 2016 (power of the OGA to impose sanctions) as petroleum-related requirements.

(2) But the OGA may not give an enforcement notice, a revocation notice or an operator removal notice under that Chapter by virtue of this section."

A4 (1) Section 18 (administration, enforcement and offences) is amended as follows.

(2) In subsection (2)(a), for "9 and 12" substitute "9, 12 and 12A".

(3) In subsection (3)—

(a) in paragraph (a), for "9 or 12" substitute "9, 12 or 12A", and

(b) in paragraph (b), after "Secretary of State" insert "or the OGA".

A5 In section 21 (interpretation), after the definition of "natural gas" insert—

""the OGA" means the Oil and Gas Authority;"."

Lord Bourne of Aberystwyth: My Lords, I now turn to Amendments 7 and 22, which relate to further functions to be transferred to the Oil and Gas Authority.

The Energy Act 1976 contains important provisions relating to the giving of a consent for the flaring and venting of gas. Consent will be given by the OGA, rather than the Secretary of State for Energy and Climate Change, for the flaring or venting of gas by a relevant oil or gas processing facility within the meaning of Section 82(1) of the Energy Act 2011. The holder of a petroleum production licence will have to obtain the consent of the OGA rather than the Secretary of State to vent gas. Consent to the flaring of gas under a petroleum production licence is not covered by that provision, as it will be sought under the licence from the relevant licensing authority. The matters for which consent must be sought from the OGA are set out in proposed new Section 12A of the Energy Act 1976, which is introduced by Amendment 7.

In bringing these functions within the regulatory remit of the OGA, the amendments make provision to ensure that the OGA can issue a financial penalty notice for a failure to comply with requirements to seek consent before disposing of natural gas by flaring and venting. A financial penalty notice may also be issued where a person has failed to inform the OGA of the disposal of natural gas by flaring or venting where

it was not possible to obtain the consent of the OGA because there was a risk of injury to a person and the relevant criteria were satisfied.

Amendment 22 would allow the OGA to charge fees for the issuing of consents in relation to the disposal of natural gas by flaring and venting. This is consistent with the "user pays" principle and is in line with Her Majesty's Treasury's *Managing Public Money* guidance. I beg to move.

Baroness Worthington: My Lords, I am grateful to the Minister for introducing these amendments. The extent to which operations across the UK can conduct flaring or venting is important, and it is clearly right that there should be an ability to issue a financial penalty if there is a failure to comply. Therefore, many of the provisions introduced here appear to make sense.

I have one question. Venting and flaring would require careful correspondence with the environmental aspects of the regulation of the North Sea, in particular, and indeed of onshore oil and gas operations. Has the Environment Agency been involved in and consulted on these amendments? How would the proposed arrangements work in relation to the requirement to include the venting and flaring of gases under the European Emissions Trading Scheme, which is administered by the Environment Agency?

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness for her comments on these amendments, which, like me, she accepts are important in relation to fee-charging. I will have to write to her on the specific issue of whether the Environment Agency has been consulted—I would anticipate that it has—and on the related point about the European Emissions Trading Scheme. Of course, the Oil and Gas Authority would be bound, as are other institutions, by environmental law, and I anticipate that the proper liaison would therefore take place. However, as I said, perhaps I may write to her on the specific issues she raises.

Amendment 7 agreed.

Amendments 8 and 9

Moved by ***Lord Bourne of Aberystwyth***

8: The Schedule, page 41, line 10, at end insert—

"( ) in paragraph (b), omit the words from "to the extent" to the end,"

9: The Schedule, page 41, line 14, at end insert—

"3A After section 9B insert—

"9BA Exercise of certain functions of the Secretary of State

(1) The Secretary of State must act in accordance with the current strategy or strategies when exercising the functions mentioned in subsection (2).

(2) Those functions are functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines (including the reduction of such costs by means of the timing of measures proposed in abandonment programmes and by the inclusion in such programmes of provision for collaboration with other persons).""

Amendments 8 and 9 agreed.

Clause 3: Contracting out of functions to the OGA

Amendment 10

Moved by ***Lord Bourne of Aberystwyth***

10: Clause 3, page 3, line 11, at end insert—

"(3) The Welsh Ministers may enter into an agreement with the OGA authorising the OGA to exercise any functions of the Welsh Ministers.

(4) The reference in subsection (3) to functions does not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.

(5) An agreement under subsection (3) does not affect the responsibility of the Welsh Ministers.

(6) An agreement under subsection (3) does not prevent the Welsh Ministers from exercising a function to which the agreement relates.

(7) The Welsh Ministers must arrange for a copy of any agreement under subsection (3) to be published in such manner as the Welsh Ministers consider appropriate for bringing it to the attention of the persons who, in the Welsh Ministers' opinion, are likely to be affected by it."

Lord Bourne of Aberystwyth: My Lords, I will now speak to the third group of amendments, which relates to the devolved Administrations, and will start with our proposal to enable Welsh Ministers to contract out functions to the Oil and Gas Authority before turning to a technical matter on the applicability of the objective to maximise economic recovery to Northern Ireland.

Amendment 10 amends Clause 3 on the contracting out of functions to the OGA in relation to Welsh Ministers. In establishing the OGA we have been careful to keep the devolution implications in mind. The OGA currently, as an executive agency of DECC, manages the onshore oil and gas licensing regime across Great Britain. Following the recommendation of the Smith and Silk commissions, onshore petroleum licensing is expected to be devolved to Scotland and Wales respectively. The Scotland Bill is currently being considered by Parliament and makes provision for the devolution of onshore petroleum licensing. The Government intend to publish a draft Wales Bill tomorrow.

Following engagement with the Welsh Government, I am now introducing these clauses which would enable the Welsh Ministers, should they choose, to enter into an agreement with the Oil and Gas Authority authorising them to exercise any of their functions. The aim here is to provide flexibility in the delivery of onshore oil and gas licensing functions once devolved. Equivalent provision is not being made for Scotland as Scottish Ministers are content that they may rely on the Deregulation and Contracting Out Act 1994 to achieve a similar effect.

I will, of course, continue close co-operation with the devolved Administrations on oil and gas issues in general and the implementation of the Wood review specifically. Our existing close working relationship is demonstrated through initiatives such as the PILOT group, of which the Scottish Energy Minister is a member. This aims to deliver a quicker, smarter and sustainable energy solution to secure the long-term

[Lord Bourne of Aberystwyth]
future of the United Kingdom continental shelf and ensure full economic recovery of our hydrocarbon resources.

Amendments 75, 83 and 86 relate to MER United Kingdom and Northern Ireland. The Oil and Gas Authority will be formally established so that it is an effective, robust and independent regulator of the petroleum industry. The first steps in this direction were taken in the Infrastructure Act 2015, which made provision, among other things, for a strategy to maximise the economic recovery of petroleum from the United Kingdom territorial sea and the United Kingdom continental shelf. In relation to Northern Ireland, those provisions were created with a mismatch between their territorial extent and application. They apply to Northern Ireland's territorial sea: however, they do not form part of the law of Northern Ireland. Amendment 75, therefore, amends the MER UK provisions so that they form part of the law of Northern Ireland as well as of England, Wales and Scotland, which is currently the case.

This also requires an amendment to Section 9H of the Petroleum Act 1998 so that a relevant upstream petroleum pipeline, a relevant oil processing facility or a relevant gas processing facility is included if it is situated in Great Britain, the territorial sea adjacent to Great Britain or the United Kingdom continental shelf. This is also achieved by Amendment 75.

We considered extending the third party access regime under Chapter 3 of Part 2 of the Energy Act 2011 to Northern Ireland's territorial sea. However, this could not be done easily. This is because upstream petroleum infrastructure can be found onshore as well as offshore and the intention is for the third party access regime to be unified. We note that the onshore regime is a matter that has been transferred to Northern Ireland. However, we do not consider this to be a problem at the moment as there is currently no upstream petroleum infrastructure in Northern Ireland or the territorial sea around Northern Ireland.

Amendments 83 and 86 are consequential upon Amendment 75 and respectively ensure that Amendment 75 has the correct territorial extent and the short title of the Bill recognises this too. I beg to move.

Lord Foulkes of Cumnock: My Lords, I confess that I do not have an exact understanding of all the details in relation to this issue—I hope I will be forgiven by any Members who do, if there are any—especially in relation to the devolved Administrations which inevitably seem to complicate matters. Can the Minister answer one question in relation to fracking? What is the position of the Scottish Government in terms of permissions for and control over fracking now, and how will it change if we pass this Bill?

Baroness Worthington: My Lords, I am grateful to the Minister for presenting these amendments. I have no real questions on their detail, but I suspect that this is not the part of the Bill which has the most controversy in relation to devolution, and it is not Wales and Scotland that will be the most contentious aspects. However, I reiterate the question of my noble friend Lord Foulkes about fracking. If we could have an answer from the Minister, that would be welcome.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord and the noble Baroness for their comments. On the specific question about fracking, I have to confess that I am not certain about the position, but I am endeavouring to find an answer, and perhaps I may come back to it during the course of the debate.

Lord Foulkes of Cumnock: Perhaps I may expand slightly on what I said. Fracking is generally a very controversial issue in the United Kingdom, and it has become increasingly so following the recent conference of the Scottish National Party where there was a major debate about a moratorium on fracking. It is going to be a lively issue over the next few months and I think it is important that we know exactly what the current position is before the Bill gets to the House of Commons, and whether it will make any material changes to it.

Lord Bourne of Aberystwyth: My Lords, it has now been confirmed that the Bill does not do anything in relation to fracking, but that the Scotland Bill does. So I hope that the controversy and the heated debate on fracking can be transferred to the Scotland Bill rather than to this one.

I thank the noble Baroness, Lady Worthington, for her comments on this part of the Bill. I quite agree that this is not going to be the most controversial of its aspects. We have dealt with the devolved Administrations with what I hope is sensitivity and I think that we are going forward in a united way. With that, I urge noble Lords to support these amendments.

Amendment 10 agreed.

Amendment 11

Moved by ***Baroness Worthington***

11: After Clause 3, insert the following new Clause—

"Transportation and storage of greenhouse gases

In section 9A(1) of the Petroleum Act 1998 (the principal objective and the strategy), for "recovery of UK petroleum" substitute "return of UK petroleum, while retaining oversight of the decommissioning of oil and gas infrastructure, and securing its re-use for transportation and storage of greenhouse gases"."

Baroness Worthington: My Lords, in moving Amendment 11 I shall speak also to Amendments 27 and 28 and to government Amendment 26, which is in this group. The Government's Amendment 26 is a welcome concession. It is obviously a response to the debate held during the passage of the Bill where a number of noble Lords from different sides of the House raised the very important issue of whether the OGA's powers, and indeed from my perspective its principal objectives, were fit for purpose. There was a strong sense that a review ought to be provided for in the Bill which the Government would undertake and then report back to Parliament. We are pleased to see

that an amendment which would at least introduce a review has been tabled. I would say, however, that the review is of performance alone and not of purpose, and certainly makes no mention of a review of the primary objectives of the Bill. It is those primary objectives which are causing me the most concern. If noble Lords will bear with me, I should like to spend a little time articulating why that is, which will explain why we have brought forward Amendment 11 to change the principal objective of the OGA.

Noble Lords will be aware that the OGA was first created as a temporary executive agency under the Infrastructure Act 2015, and the intention was to implement the recommendations made by Sir Ian Wood as set out in the Wood review, which coined the phrase, "maximising economic recovery". The eagle-eared among us will note that often when the Minister refers to MER, he actually describes it as "maximising economic return", which is quite a significant difference. It may just be one word, but it indicates a subtle shift in focus that has happened since we received the Wood review in 2013. It has been eloquently alluded to on many occasions by the noble Lord, Lord Howell, and my noble friends Lady Liddell and Lord O'Neill, and others. There has been a significant change in the North Sea in particular since the Wood review was published and now, when we find ourselves looking at the detail of the OGA and how it will go about meeting the objectives of MER.

4 pm

I want to take some time to go back to the principal objectives as defined in law. They do not occur in this Bill but are in the Petroleum Act 1998, as amended by the Infrastructure Act. To get the full context of what we are discussing today, one has to go back through two layers of legislation to find out what the OGA is set up to do. Section 9A of the Infrastructure Act provides two objectives. The first is,

"maximising the economic recovery of UK petroleum",

which is subdivided into,

"development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure)".

That does not sound like the object of a regulator. It sounds more like the object of a company that might be seeking to invest in technical infrastructure and construction. I repeat that the legislation refers to,

"development, construction, deployment … of equipment".

It is an interesting object for a regulator.

The second part of this section is subdivided to include,

"collaboration among the following persons".

The word used is "collaboration", and not regulation, dispute resolution or licensing. There is no reference to any of those in this legislation. The collaboration is among,

"holders of petroleum licences … operators under petroleum licences … owners of upstream petroleum infrastructure … persons planning and carrying out the commissioning"—

let us note that it refers only to commissioning and not decommissioning—

"of upstream petroleum infrastructure".

That is the collaboration that was imagined. There is no reference to people who may seek to reuse the infrastructure for carbon capture and storage or any reference, significantly, to those who might be decommissioning infrastructure.

The legislation goes on to refer to a strategy which the Secretary of State must produce and that it "may"—I repeat "may", so there is no real lock on what has to be done in the strategy—

"relate to matters other than those mentioned in subsection (1)(a) and (b)".

Those are the objectives of the OGA.

As I have said, that does not strike me as a very clear set of objectives or a very comprehensive set of objectives. Nor does it strike me as a set of objectives that sounds like it applies to a regulator. The objectives sound awfully like they might apply to a company that might be established to attract investment into the North Sea and to oversee the deployment of that investment—hence, my reference to privatisation in the previous debate. Although it may be the first time the Minister has heard that phrase, that is not necessarily very comforting. That is not to say that the Minister is not across his brief. Of course, he is but he is very new to his position. I suspect that if it has been talked about, that will have been not in his department but in the Treasury, which, as we know, is obsessed with making sure that overall commitment to spending is kept at an absolute minimum, and that all new bodies are kept at arm's length and do not appear on the Government's balance sheet. That is despite the fact that in this Bill clauses have been improved to give the OGA the ability to have grants from the Government. Indeed, the word is "grants" and not loans.

One can see why we have a concern about the primary objectives and why we have raised it in this Bill in the way that we have. This has led us to put down Amendment 11, which seeks to change those principal objectives to make them much more in line with what we now know to be the set of activities that will be undertaken by the OGA. I have no doubt that when Sir Ian Wood wrote his review in 2012-13, he had a great vision of simply needing a little government intervention to make sure that investment was happening in a logical way, which would keep the oil and gas flowing, and that some element of dispute resolution would be needed, but that by and large everything would be relatively rosy if people would just get talking to each other, and that is what led to those objectives.

However, now we know that that is not the situation in the North Sea—far from it. We have a crisis. We have people exiting and not investing. It is an economic problem, for the country as a whole and for public receipts, and a social problem. As we heard from noble Lords, people are losing their jobs. There is a great deal of uncertainty. It is not at all clear what the strategy now is in the North Sea.

We tabled Amendment 11 to change the fundamental objective of the OGA: to make it fit for purpose, comprehensive and a little bit closer to what we would expect a regulator representing the Government's interests in the extraction of oil and gas to be interested in; and to maximise economic return from our resources, not necessarily just the economic recovery of fossil fuels.

[Baroness Worthington]

Amendments 27 and 28 are amendments to the Government's Amendment 26. As I mentioned, the Government have come forward with a review of performance that we think does not get to the nub of our problem. It would be at least useful to have a review, but it is not appropriate to delay for another three years before that review reports to Parliament. It should be one year. We should have a proper review of the OGA's fitness for purpose.

As I said in my introductory comments to the first group of amendments, this could have been so different had proper time been allocated to this very important piece of legislation. Had we had the chance to have pre-legislative scrutiny, I am sure that many of these issues would have been flushed out and we would have found ourselves with a far better Bill than the one we face today. As I say, we are where we are and we are doing what we can to encourage the Government to take another look at this—to have a proper assessment of whether this is fit for purpose for the challenges facing us now, not the challenges that Sir Ian Wood was asked to look at three years ago.

I have one question for the Minister: when was the last time he had a conversation with Sir Ian Wood? His name is often used; it is almost as if he were Moses, handing down his diktats in stone and we have been enforcing them. Has Sir Ian Wood been engaged with by the Government? What are his views on what is now happening in the North Sea? What does he think about the OGA, with the benefit of being able to see what has happened to our oil and gas infrastructure over the last 24 months?

I am afraid that the Government have no strategy for energy in this country and are out of their depth when they consider what should be done in the North Sea in particular. I am concerned that we are establishing in statute a body that simply is not fit for purpose, neither in future-proofing for the challenges of the 21st century, nor in reflecting what is happening now. I hope that the Government will give me their reassurances that they will accept the amendment, because we feel very strongly that it is an important aspect of the Bill that has been overlooked.

Lord Howell of Guildford: My Lords, although I sometimes agree very much with the words of the noble Baroness, Lady Worthington, with her enormous expertise in these fields, on this occasion I have some doubts about the amendment and what it tries to do. We all agree that the scene in the North Sea is changing very rapidly and that there is colossal uncertainty. I do not find any difficulty with the suggestion that the new authority should oversee decommissioning of oil and gas infrastructure. Frankly, there will be a lot more of that. We are already hearing of whole fields being made redundant and major problems of finance with existing operations. That the authority should have oversight of decommissioning oil and gas infrastructure seems to me merely common sense. That will happen anyway.

It is this extra bit that is added on about transportation and storage of greenhouses gases; we need to think very carefully about what we are saying. We are talking about very elaborate and interesting new technologies, which, if they could be developed commercially, would be a godsend, both to the global movement to reduce CO_2 emissions and our contribution to it. It would allow the burning of fossil fuels, but in ways that did not emit CO_2 and did not damage the climate. But this technology is not very far advanced. It is working in one or two places around the world. Billions have been spent on it, but the difficulties and sheer size of the engineering—of getting pipes into the North Sea and into the redundant oilfields, or areas where enhanced recovery will be enabled by higher pressure, delivered through the injection of CO_2—is very much in the future and costs a lot of money.

What is necessary at this stage is to think clearly in terms of the possibilities for the future handling and sequestration of carbon emissions from carbon-generating activities rather than commit the authority to thinking about a particular aspect of it which may, frankly, never become a commercial reality and could impose colossal burdens on an industry in enormous difficulties. I have in mind two technologies. I defer here to the noble Lord, Lord Oxburgh, who is sitting not very far from me and is a far greater expert on the future handling of CO_2. It is, of course, a very valuable gas. Indeed, an article in this morning's papers by my noble friend Lord Ridley reminds us that, if handled correctly, CO_2 has huge potential for improving the climate and our standard of living, bringing greenery to desert areas and encouraging all kinds of industries. One of the two technologies combines CO_2 with CO_2 already in the atmosphere, the phrase for which escapes me for the moment. It can then be turned very rapidly into carbon, which is an immensely valuable material used in many products. If we can get cheaper carbon, we can make huge advances in all sorts of materials and products and reduce the cost of those products.

The other technology, which again is still in its infancy but is very interesting, enables carbon to be sequestered and transformed into solid forms and eventually be used to produce lime-structured bricks and other building materials. All this obviates the need for pipelines and huge elaborate systems taking this material out into the North Sea into oilfields, former gas fields and other areas. Although it will not necessarily escape as it is not that kind of gas, there are problems with leakage containment in the future, all of which implies huge extra costs on somebody's part.

I repeat that we are dealing with an industry that is at the moment, frankly, running out of money, is very short of funds and in a contractionary phase, so it would be most unwise to add this additional imposition to the objectives and activities of the authority. It would add to costs and create further uncertainty. We should concentrate on the areas that we know about. Powers exist in the Bill to alter the OGA's objectives in practical ways according to ministerial requirement, if I am completely wrong and what is now a very remote and expensive technology, involving vast engineering and additional costs, suddenly becomes economic due to some unimagined technical breakthrough. That is always possible, and the Bill has the flexibility to allow for that. We do not need it in this amendment.

Lord O'Neill of Clackmannan: I am very pleased to follow the noble Lord, Lord Howell, because we had a conversation some time ago about how, as a young Back-Bencher in the early 1980s, when the noble Lord was the Secretary of State for Energy, he advocated the gas-gathering pipeline, which would have been of great significance to people in my former constituency who at that time worked in Grangemouth. Much of the energy debate is about purpose, being not just retrospective but prospective, and looking at technological advance and the possibilities this offers to facilitate greater efficiencies and better exploitation of the resources we have. Therefore, it seems very strange that we have a piece of legislation recalibrating—we might say—the Oil and Gas Authority, and that one of its main purposes is to be retrospective rather than prospective. I back my noble friend on the Front Bench because I think that we would be missing a trick here if we simply imposed on this authority in its new form the business of conducting retrospective triennial reviews. A review of past performance is desirable. You could argue that in the first instance three years might be appropriate, but thereafter I think it would be far more appropriate to have annual reviews so that we would have an annual report and perhaps an annual debate.

4.15 pm

Certainly, in my days as chair of a Select Committee one of whose major responsibilities was looking at energy matters, we would have been very keen to have an annual discussion with the OGA about what it was doing and where it was going, and in preparation for such a meeting—I would not say confrontation, simply a meeting—I would have thought that the staff would carry out a review. Therefore, I think the work within the OGA probably will involve annual reviews. I am not one of those people who says that we should have them from the word go, subject to the closest scrutiny. Fledgling functions and organisations take time and sometimes mistakes are made that are not necessarily too embarrassing but you do not need to have a battle about, "We've got the first year wrong". It is when you get to year three, four or five that reviews are really critical. Also, when you are dealing with reviews and you are learning lessons, you have to review not only the past performance but whether or not the authority is capable of doing the job it has been set up to do. Then matters of purpose come into play. It would be better if we were able to do that.

We have an infrastructure in the North Sea, perhaps not as logical and sophisticated as the kind that was envisaged some 30 years ago and, sadly, rejected by the then Government; nevertheless, we have this fantastic asset in the North Sea which we could be making use of in a variety of ways, which would not necessarily be only in relation to CCS. I have my misgivings about CCS. In some respects, it is beginning to become the carbon version of fusion—"It will be all right in 35 years' time". In fact, the experts tell us that it may be only 20 years for fusion, but one gets a little impatient with the advocates of CCS, who keep telling us it is just round the corner. I was in Australia a couple of years ago and the Australian press was confidently saying that it would be 25 years. You might argue the Australians have an excuse for that, given their Government's attitude towards climate change and the influence of the coal lobby there; they are quite happy to see it in the long grass. It would be good if we could get it earlier, but to put a substantial part of our money on that particular area of activity for the OGA is a wee bit overoptimistic. Therefore, I would strike a cautionary note on that.

One of the great successes of the British economy has been our ability to harness the resources of the North Sea. It has always been difficult and because of that it has always been expensive. When the price of oil and gas is high, such investment is possible, but with the price of a barrel now being no more than $53 or $54, at least into 2016, we are talking about very high risks and therefore we need to have the best information. We need to have another voice, which can give reasonable forecasts and another opinion, not necessarily from within government but at arm's length from government. We would be missing an opportunity were we not to take advantage of this creature we are dealing with at the moment—the OGA—and giving it better-defined functions with a greater degree of ambition, rather than the rather limited, retrospective function we are endowing it with in this clause, if we do not amend it along the lines my noble friend has suggested.

Lord Spicer (Con): I have not spoken on this subject for 25 years. I do not intend to make up for it now—in fact, my intervention will be very short. The reason that I have not spoken for 25 years is that I have been rather too close to the industry for comfort. I was a Minister for Energy in the late 1980s and took through the Electricity Bill. Subsequently I have been chairman and president of Energy UK and of the Association of Electricity Producers. I have therefore been close to the industry. It is not until now, when I have been released from those happy burdens, that I feel that I can say at least a short work about energy matters.

In the present context, two things matter to the energy industry, particularly the petroleum industry in the North Sea. They are, first, certainty and stability, particularly in government policy, and, secondly, less rather than more regulation. On the question of certainty, we have to recognise that the petroleum industry in the North Sea is very fragile. My noble friend Lord Howell has mentioned that at the moment it is also very poor. There are questions as to how many more burdens it can bear.

I was thinking about the question of certainty just now when it comes for instance to the nuclear industry. We have now got the Chinese beginning to enter the fray. My mind goes back to when I talked to the Americans about flogging off bits of our privatised nuclear industry to them and got into terrible trouble with the Prime Minister at the time, Lady Thatcher. It is slightly ironic to me that we are now talking to the Chinese about the same subject.

Be that as it may, the question of certainty is terribly important. That brings me to the amendment. The noble Baroness fears the threat of privatisation. I do not see the point of setting something up for the purpose of privatisation. We have already been told that there are probably too many players in the industry

[LORD SPICER]
in the North Sea at the moment and that they are too stretched. Therefore, my suspicion is that we are talking about more regulation. I cannot understand the argument of the noble Baroness at all on this point. I hope that it is not about more regulation and that the Minister will tell me that it is not. However, I think that it has to be about regulation. That is why I agree with my noble friend Lord Howell that if, as I think, it is about more regulation we have to be fearful about whether the industry can sustain the costs, particularly in the North Sea. Therefore, I have the opposite view to the noble Baroness and I hope that my noble friend will be able to reassure me on this point.

Lord Teverson: My Lords, I was pleased to add my name to this amendment. I agree with the noble Lord, Lord Spicer, that we do not want any more regulation than we need, but I do not see this as bringing forward greater regulation.

In my business career I learned three things in particular. The first was that you should concentrate and keep your mind on your core activity. I felt a certain resonance when the oil and gas industry wrote about this amendment that actually that was the imperative thing that needed to happen because—as I know from my extended family—at the moment that industry is under threat. There is great retrenchment and difficulty, so the OGA needs to concentrate strongly on its responsibilities for the oil and gas industry.

Having said that, the second thing that I learned from practice was that you can concentrate as much as you like on the business that you are in but the most important thing is to follow the market. That is not exactly what you can do here, but what is clearly true is that the future will be about carbon capture and storage. This is a core part of government policy and all of our policy on climate change and carbon emissions. Therefore there needs to be a real future for this sector and these facilities. That is why it is important that that element is brought into this part of the Bill and will be there for the future. I take perhaps the naive example of Beeching and the railways; now down in the south-west we are trying to reopen one or two of the lines that were closed back in the 1960s. If we thought more about future uses and what happens after our actions, we might moderate and think more about decisions for the longer-term future.

The third thing I learned from business was "right first time", which is the best thing to remember as a principle for running any organisation. It seems to me that getting it "right first time" on this issue would be to make sure that we take into consideration carbon capture and storage, and what that offers in terms of solving our climate change issues, as well as to use the facilities, the network and the vital assets that are currently in the North Sea. We need to include that in legislation now rather than in the future.

Lord Bourne of Aberystwyth: My Lords, first, I thank the noble Baroness for setting out the non-government amendments relating to this part of the Bill. Amendment 11 would replace the principal objective in Part 1A of the Petroleum Act 1998 of,

"maximising the economic recovery of UK petroleum",

with an objective to maximise the economic return on UK petroleum while, first, retaining oversight of the decommissioning of oil and gas infrastructure and, secondly, securing its reuse for the transportation and storage of greenhouse gases.

I understand the purpose of this amendment. Indeed, I have detailed significant positive amendments from the Government—which we will discuss more fully elsewhere—to ensure that both CCS and decommissioning are given a prominent focus in the Bill. Indeed, the amendments that I have tabled ensure that the OGA will have a strong role on decommissioning, to ensure both that costs are controlled and that reuse of assets, including for CCS development, is given full consideration before decommissioning begins. The Infrastructure Act 2015 refers to abandonment, which of course is the technical term used in the Act for decommissioning.

I hope that noble Lords will agree that the Government's decommissioning amendments achieve the same effect as the reference to decommissioning in this amendment, rendering it unnecessary. I have tabled a large number of amendments to ensure that CCS developments will be a firm and important consideration for the Oil and Gas Authority. My noble friends Lord Howell and Lord Spicer, and others, referred to the fragile nature of the industry, and we do not want to add more costs to it. This will be particularly relevant in looking at some later amendments, but it is relevant here, too.

Bringing CCS into Clause 4 and maximising the potential synergies, as we have done with the amendments we have tabled, will be much more effective than trying to give the Oil and Gas Authority a new and separate objective on CCS. The amendments that I have tabled are meaningful, and I hope that they will be sufficient to satisfy noble Lords that Amendment 11 is not necessary. The noble Baroness suggested that the review was limited to the Oil and Gas Authority's performance for each review period. That is not strictly true. Subsection (4) of the new clause in Amendment 26 says:

> "A review must, in particular … assess how effective the OGA has been in exercising its functions, and … consider the OGA's functions under … Part 2, and … Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), with regard to their fitness for purpose and scope".

Amendment 11 is therefore broader than the noble Baroness was suggesting. It would create a significant expansion of the OGA's responsibilities, which would have consequences for the OGA and industry.

Notwithstanding the difficult challenges that the industry is facing, the recommendations of the Wood review remain as important as ever. They continue to attract strong industry support, and I have been pleased to note the continued cross-party support for them throughout the passage of the Bill. The Wood review envisaged an Oil and Gas Authority focused on maximising economic recovery, and the recommendations made by Sir Ian Wood hold that principle front and centre.

I have not spoken to Sir Ian Wood—it might be unhelpful to ask him to revisit the review and interpret it back to the House—but it is worth noting that he has chaired the interim advisory panel of the Oil and

Gas Authority, which is looking into the functions and preparation of the authority before it achieves its enhanced status, so he is very much involved in the process.

4.30 pm

I fear that expanding that principle to cover decommissioning and carbon capture and storage specifically would create significant knock-on effects for other aspects of this Bill and the Infrastructure Act 2015, particularly the strategy to maximise economic recovery of United Kingdom petroleum. It would also have repercussions on at least the meetings-access powers and the dispute-resolution powers in the Bill by opening them up to a raft of additional industry activity. It would also cut across many of the amendments that we have tabled in relation to the information and samples powers, which I will discuss later, which clearly and specifically address CCS, rendering them of uncertain effect. I fear that by expanding the OGA's remit to those new and significant areas of regulatory activity, we risk weakening the overall approach that the organisation can take towards supporting the industry for the short, medium and long term.

Clearly, the oil and gas industry is facing major challenges, but it is an industry which remains critical to the United Kingdom economy by satisfying just over half of the United Kingdom's oil and gas demand and supporting approximately 350,000 jobs. We will still need significant oil and gas supplies over the next decades while we decarbonise and transition to a low-carbon economy.

The OGA's key actions are providing urgent support to industry through developing exploration, promoting new ways of working and protecting key infrastructure in the North Sea. The reality is that, without the OGA's focus on maximising economic recovery in the United Kingdom, we risk premature decommissioning of the United Kingdom continental shelf and loss of assets, infrastructure and skills, including those which could in time help to promote the longevity of the industry through carbon storage projects.

I believe that carbon storage is vital. I note the points made by the noble Lord, Lord O'Neill. Clearly, it is not the whole of the answer, but carbon capture and storage has been regarded across the House as of key significance. That is why I have taken away and responded to what was said at earlier stages and come up with the amendments.

Premature decommissioning creates the very real prospect that infrastructure and skills disappear from the UK continental shelf before the CCS industry is ready to take advantage of them. Maintaining the OGA's focus on maximising economic recovery of United Kingdom petroleum and extending the lifetime of key pieces of infrastructure will therefore benefit the CCS industry.

I reiterate that I have made extensive and meaningful amendments to the Bill to incorporate a significant role for the OGA on both CCS and decommissioning. Furthermore, as has been noted, I have tabled amendments which demonstrate a firm commitment that the OGA's powers, including those on carbon dioxide storage, will be regularly reviewed by the Secretary of State. Ultimately, this process of review will provide an opportunity to review the OGA's principal objective if in future this was considered necessary.

I hope that the approach that I have set out avoids the need for this amendment, which would create a significant extension of the Oil and Gas Authority's functions and also directly impose new and unquantified obligations on petroleum licence holders, operators and owners of upstream petroleum infrastructure. I therefore hope that the noble Baroness will be content to withdraw the amendment.

I turn to government Amendment 26, which inserts a new clause after Clause 11, requiring the Secretary of State to carry out a review of the Oil and Gas Authority's performance and functions on an ongoing basis. As I said in Committee, it is important to put in place measures to ensure that the OGA remains well equipped to address the diverse challenges which are faced by the oil and gas industry. The amendment requires an initial review to take place no later than three years after Clause 1 comes into force and subsequent reviews every three years thereafter, although the Secretary of State will have discretion to conduct more frequent reviews if necessary and an earlier review if that is felt appropriate. A review, of course, will consider both the OGA's effectiveness in exercising its functions and the fitness for purpose and scope of its functions under Part 2 of the Bill. Importantly, a review will also give consideration to the fitness for purpose and scope of the OGA's powers under Chapter 3 of Part 1 of the Energy Act 2008, which sets out the OGA's functions in respect of the storage of carbon dioxide.

Read in conjunction with the amendments to Clause 4 of the Bill, this will ensure that the OGA's role in relation to carbon storage is given due prominence and regularly evaluated. It will also ensure that Parliament can effectively scrutinise the outcomes of any review—and, in particular, those functions relating to carbon storage. This is achieved through the requirement in subsection (5) of the clause for the Secretary of State to lay a report of the findings of the review before Parliament as soon as possible.

In tandem with the extensive amendments which I have tabled relating to the OGA's role on CCS, I hope that noble Lords will agree that this represents a considerable step towards ensuring that an appropriate focus upon carbon storage is incorporated throughout the Oil and Gas Authority's functions. I have tried to strike a balance in relation to the debate and the consideration that we have had here between excessive review, in terms of disrupting the activity of the Oil and Gas Authority, and, clearly, a need to review the functions, which will include CCS and decommissioning.

I now turn to non-government Amendments 27 and 28. I thank the noble Baroness for proposing them. These amendments relate to my own Amendment 26, which I have just described, and which inserts a new clause after Clause 11 of the Bill requiring the Secretary of State to carry out a review of the OGA's performance and functions on a more frequent basis. These amendments seek to reduce the time period for carrying out a review given in subsections (2)(b) and (3)(b) respectively of government Amendment 26. The effect of Amendment 27 would be to reduce the time period

[Lord Bourne of Aberystwyth]
within which the Secretary of State must carry out an initial review from a maximum of three years after Clause 1 of the Bill comes into force to a maximum of one year after such time. Similarly, Amendment 28 would reduce the maximum time period within which the Secretary of State must carry out subsequent reviews from three years to one year.

Although I have reiterated that the OGA's functions should be kept under review, I believe that a mandatory requirement for a review to be repeated on a frequency of yearly—rather than the three-year period proposed in my own amendment—would be too onerous for government, the OGA and industry, and would have unintended consequences. It is a more frequent review than is generally the case; it is almost universally the case that it is not held on that frequency. The amendments as proposed would also be out of step with other regulators and risk conflicting with the OGA's status as an independent regulator.

Let us consider the practicalities of these amendments. Each review would need to evaluate the effectiveness of the OGA's functions, which include statutory functions within multiple pieces of legislation and non-statutory functions. It would also need to specifically consider the fitness for purpose and scope of the OGA's functions under Part 2 of this Bill and Chapter 3 of Part 1 of the Energy Act, which relates to the OGA's functions in respect of the storage of carbon dioxide. This evaluation would need to be assessed against external factors, such as changes in the regulatory landscape, changes in operational practices across the UK continental shelf, and environmental and economic factors.

After a review period, the Secretary of State would need to consider the findings and prepare a copy of a report of the review to be laid before Parliament. This would be a significant piece of work, and I am concerned that for a review to be repeated every year would subject the OGA to an almost continuous process of evaluation by government. This would create significant resource burdens both for the OGA and for government and risk obstructing the work of the OGA. It would also weaken the ability of the OGA to act as an independent regulator which is free from government intervention.

Noble Lords may consider that a three-year period is too long, but in the amendment that I have tabled it is explicit that three years is the maximum period within which a review must be carried out. If the Secretary of State deemed it necessary to carry out a review within a shorter period, then this is possible through the amendment that I have tabled. It is worth also noting that there will be other mechanisms in place to ensure that the OGA is held to account over its performance and functions. It will publish, on an annual basis, a refreshed five-year business plan and an annual report of accounts. This latter report will also be laid before Parliament.

An arm's-length body charged with the effective stewardship and regulation of the United Kingdom continental shelf was a central recommendation of the review. I believe that these amendments would conflict with that recommendation by subjecting the OGA to an onerous and almost continuous process. I hope that this explanation will satisfy the noble Baroness and that she is content to withdraw the amendment.

Baroness Worthington: My Lords, I am grateful for that very thorough response from the Minister and for the contributions from noble Lords in this debate. I am afraid I am not reassured. Perhaps I did not make myself sufficiently clear in my introduction of Amendment 11 about the root of my concern. This is not to do with whether we can review the functions of the OGA or whether the performance of the OGA as set out in the Energy Bill is sufficient. I am referring to the primary objectives of the OGA as set in the Petroleum Act as amended by the Infrastructure Act. As I read out, those primary objectives are very odd for a regulator, for a body that is meant to be providing stewardship and oversight to an industry in the private sector part of the economy. It is that which causes me the greatest concern about this aspect of the Bill.

I am not reassured by the Minister's references. In fact, I found myself questioning: which is it? Is it the case that this is not needed and that Amendment 11 is simply unnecessary? All these decommissioning references and CCS references were concessions we won from the Government in Committee. When the Bill appeared before us, there was no explicit mention of CCS or decommissioning. We had to extract that from the Government in Committee. Having done so, I contend that the primary objectives of this organisation do not fit those new powers.

Lord Bourne of Aberystwyth: I hope the noble Baroness accepts that the acceptance at Second Reading of the importance of CCS was not grudging. It was readily acknowledged, so there was nothing grudging about the concession, as she terms it. I hope she accepts that we have moved forward together on that.

Baroness Worthington: Absolutely. I pay tribute to the Minister for the manner in which he has conducted those discussions. However, it is true that the Bill that appeared before us read like something from a time gone by. There was no reference to future challenges or, indeed, present-day challenges. We have improved the Bill through the process of collaboration. We need to continue that process and look at the primary objectives.

Earlier today, the Minister was kind enough to give me an example of another regulator which is a private company with a single shareholder. It was the Prudential Regulation Authority. My understanding is that that is merely a temporary measure and that the Bank of England and Financial Services Bill, which will come before this House very soon, changes that temporary arrangement. It is therefore clear that regulators are not commonly private companies with very loosely defined objectives that do not refer to any kind of stewardship or regulatory function but merely refer to conducting, developing and investing in equipment and bringing people together to collaborate. Those are not the primary objectives I wish to see for a regulator of this size and complexity. It is for that reason that I am minded to test the opinion of the House.

The noble Lord, Lord Howell, agrees that decommissioning should be included in the primary objectives—it is not at the moment—but disagrees on CCS, so we are halfway to accepting that these primary objectives are not fit for purpose. The Government seem to be saying that the amendments are not needed and, at the same time, that to put them in the Bill would cause huge amounts of change. Those two things cannot be true. This is merely a way of making sure that the objectives match the functions we expect the OGA to undertake. This is such a significant issue for this aspect of the Bill that I wish to test the opinion of the House.

4.44 pm

Division on Amendment 11

Contents 251; Not-Contents 179.

Amendment 11 agreed.

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5 pm

Clause 4: Matters to which the OGA must have regard

Amendment 12

Moved by ***Lord Bourne of Aberystwyth***

12: Clause 4, page 3, line 20, at end insert—

"Storage of carbon dioxide

The development and use of facilities for the storage of carbon dioxide, and of anything else (including, in particular, pipelines) needed in connection with the development and use of such facilities, and how that may assist the Secretary of State to meet the target in section 1 of the Climate Change Act 2008."

Lord Bourne of Aberystwyth: My Lords, I will now speak to government Amendments 12, 16 and 17, which relate to the matters to which the OGA must have regard when exercising its functions. There has been informative and reasoned debate throughout the passage of this Bill about the role of the OGA in relation to CCS. I am glad that we have had the opportunity to discuss these matters more fully with many noble Lords since then. These amendments, along with others that we will be considering later today, are designed to ensure that the OGA's important functions in relation to carbon storage, which support the Government's overarching strategy for the decarbonisation of the economy, are at the forefront of the Bill.

I have spoken about the OGA's role within the Government's broader strategy to support decarbonisation. Within that context, I will now speak to government Amendment 12, which inserts an additional subsection into Clause 4. This requires the OGA, in the exercise of its functions, to have regard to the development and use of carbon storage facilities and of anything else needed in connection with the development and use of such facilities. This will create a duty upon the OGA when exercising any of its functions, so far as relevant, to give due consideration to not just the development and use of such facilities but to other necessary aspects of the carbon storage chain. Those functions include statutory functions

relating to oil and gas, such as the OGA's statutory activities on decommissioning, which we will discuss more fully elsewhere. When scrutinising an abandonment programme, which is submitted prior to decommissioning, the OGA will have a statutory duty to consider alternatives to decommissioning at every stage of a proposed decommissioning planning process. This amendment will crystallise and strengthen the need for the OGA to have regard, in particular, to the development of carbon storage facilities through its role on decommissioning.

Such duties will also read across to the OGA's role in relation to the stewardship of upstream petroleum infrastructure, including upstream pipelines, which are important for the transportation of carbon dioxide and for the commercial viability of CCS projects more broadly. Part 2 of the Bill will give the OGA new regulatory powers that apply to owners of upstream petroleum infrastructure, including powers to attend key industry meetings. These regulatory powers will provide the OGA with a much greater insight into the asset stewardship of upstream petroleum infrastructure, and this amendment to Clause 4 will help to ensure that the OGA makes strategic links to the viability of such infrastructure for the transport and storage of carbon dioxide at an early stage.

This amendment will also read across to the OGA's functions regarding information and samples. For example, when consenting to plans for the preservation of information and samples, the OGA will consider how such materials could be of interest to the development of CCS.

The amendment will also apply to the OGA's non-statutory functions—for example, where the OGA is developing important sector strategies to support the oil and gas industry. This amendment will help to ensure that CCS will also form an important element of the OGA's technology and decommissioning sector strategies, which I know are already under development. In producing these strategies, the OGA will consult the CCS industry to ensure that synergies between the industries are identified and exploited wherever possible.

The amendment will also have importance at an organisational level, and the OGA has already been examining how CCS fits into the operations of all of its directorates and has identified a key contact point for CCS at director level.

Furthermore, to make explicit the link between the OGA's carbon storage functions and the Government's priorities regarding decarbonisation, the OGA must consider how its work to develop carbon storage may assist the Secretary of State to meet the target in Section 1 of the Climate Change Act 2008.

Government Amendment 16 is intended to place beyond doubt that the OGA's functions include functions in respect of the storage of carbon dioxide. It does so by expanding the definition of "function" as provided under Clauses 4 and 5 to include functions exercised under Chapter 3 of Part 1 of the Energy Act 2008, which comprise the OGA's statutory functions in respect of carbon dioxide storage licensing. Amendment 17 simply ensures that the definition of "relevant functions" does not extend to any activity carried out by the OGA under an agreement made with the Welsh Ministers under Clause 3.

Amendments 12 and 16 are intended to formalise in the OGA's functions objectives to support the development of carbon storage, and I have outlined the effect this will have. In many cases, this reflects work already under way and which I expect to develop further as the OGA builds capacity.

I know that many noble Lords met members of the OGA leadership team following the Committee debates. I hope they will agree that the organisation recognises and understands the benefits of CCS and will work to ensure that carbon dioxide storage is properly integrated into the OGA's functions. Through these amendments, I have sought to place clear obligations on the OGA to support that approach. Moreover, I am tabling separate amendments to ensure that these matters will be continuously reviewed by government and scrutinised by Parliament—a point that we will discuss separately in more detail.

Government Amendments 34 to 40 seek to amend provisions on information and sanctions in Chapter 3 of the Bill to put beyond doubt that information and samples relevant to carbon dioxide storage licensees are within the scope of that chapter. Amendment 34 seeks to amend the definition of "petroleum-related information and samples", which is used throughout Chapter 3, to explicitly include information and samples which are relevant to activities carried out under a carbon dioxide storage licence. This applies through each of the clauses within Chapter 3 and ensures that information and samples that would be relevant to carbon dioxide storage licensees can be required to be retained, dealt with as part of an information and samples plan, and later published or made public.

Clause 29(1) sets out a non-exhaustive list of what an information and samples plan may provide for. Amendment 35 seeks to include within this list an explicit provision stating that petroleum-related information and samples may be transferred to a carbon dioxide storage licensee as part of an information and samples plan. "Carbon dioxide storage licence" is defined by Amendment 38.

Clause 27(4) allows the Oil and Gas Authority, in certain circumstances, to impose on a relevant person an information and samples plan, which may include the transfer of information to others. Amendment 36 restricts this transfer without the consent of the relevant person. This provision is a necessary safeguard to ensure that the relevant person can retain control of their commercially sensitive and commercially valuable information and samples to the extent that they wish to do so.

Amendment 37 amends Clause 29 to clarify that sanctions can be imposed on any person who is party to an information and samples plan and who fails to comply with their obligations under it. This amendment also includes a provision to the effect that an information and samples plan may impose obligations on a person who is not a relevant person, such as a carbon dioxide storage licensee, only with their consent. This ensures that obligations are not imposed without that person's knowledge or consent, which the original drafting would have allowed for.

Amendments 39 and 40 amend the Oil and Gas Authority's power to acquire information to ensure that it is able to obtain any information and/or samples

[LORD BOURNE OF ABERYSTWYTH]
for the purposes of carrying out its functions which are relevant not only to the fulfilment of the principal objective but to activities carried out under a carbon dioxide storage licence. The oil and gas industry has a wealth of information and samples that we acknowledge would be of great benefit to CCS licensees. The amendments clarify the scope of the information and samples clauses and firmly set out that it extends to include information and samples that relate to activities carried out under a carbon dioxide storage licence.

I hope that noble Lords will agree that these government amendments address the concerns raised in Committee. I beg to move.

Lord Oxburgh (CB): My Lords, I remind the House of my non-pecuniary interest in carbon capture and storage.

I both thank the Government and acknowledge the major steps they have taken in the amendments which have been presented. The Minister was clearly listening hard during Committee and now the Bill is much improved.

I do not need to remind the House that the Government have either spent or committed around £1 billion to carbon capture and storage and to get it going in two major projects which are under way. However, those projects were going nowhere unless there was relatively easy access to the continental shelves for the purpose of storing CO_2. As other noble Lords have mentioned, it is not clear when and to what degree the extent of this will be required. It is difficult to put a time on it. There is one functioning carbon capture and storage operation in Canada and others are close to it. However, providing in this Bill for access as and when it is required is very important.

There is a second requirement. We need some kind of strategic framework within which private industry can operate in the CCS area. This is the focus of Amendment 72. Had there been more time—as a number of noble Lords have said, for a variety of reasons we have been rushed over this Bill—I would have liked Amendment 72 to have been made the subject of an informal all-party discussion with the Government and officials. I feel there is significant support for this idea both within the House and probably within the Government.

The fundamental requirement is for an overall structure for co-ordination, timing and funding. Carbon capture and storage with the present technology—which may not be the technology we will have in five or so years' time—requires that you have a process for capture at the source of the CO_2; that you have a process for transporting the CO_2; and that you have a suitable repository in which it can be contained. Each of these are separate commercial activities requiring different expertise but all have the characteristic that they are relatively capital intensive. Getting these three elements available simultaneously is quite a challenge. You do not want a situation in which two are available but an operation cannot get under way because the third is not. You do not want two assets which are stranded until the third comes along. This would make it inordinately expensive.

There is an overriding and compelling argument for a degree of oversight and co-ordination, a topic which the amendment would make the Secretary of State and the Minister address. Otherwise nothing will happen. There will be a great deal of talk and we will continue, as we are at present, with a glacial rate of progress. We need a framework within which business can operate.

The other question that needs to be addressed is that of funding. In Committee I floated an idea which is very different from anything we have at present and which would effectively take the Government out of the funding loop, a possibility that in many ways must be quite attractive. But that is not the only way. Indeed, I hope that one of the advantages that this amendment might bring about would be a kind of study about other funding groups.

Before I conclude, let me just say that a few weeks ago I came across an anomaly when talking to the leader of a research group in Oxford. He pointed out that at present there is no way of remunerating an organisation which is actually carbon negative. He had tried to attain funding and support from what used to be the Technology Strategy Board and which I think is now Innovate UK, but he was told that there is no market for carbon negativity. That is an anomaly which we ought to do something about. What was presented to me was something that, while not certain, was a plausible way of building power stations that could remove CO_2 from the atmosphere by a series of processes while burning natural gas as part of their activity. If this could be made to work, it would be very attractive indeed, but it is something for which it is difficult to find support at present, and is something that the sort of review and organisation I have been talking about could address.

5.15 pm

Lord Howell of Guildford: My Lords, carbon negativity, which the noble Lord, Lord Oxburgh, has just mentioned, is the concept I was groping for in an earlier amendment and is of course all part of the picture that is emerging: one of several very rapidly changing technologies for handling the carbon issue in ways that may not involve heavy pipelines into redundant oilfields and gas fields in the North Sea or anywhere else. However, that is an aside.

The question I have about this amendment is as follows. I suppose, having criticised the last amendment—our criticisms have been slapped down by the vote of your Lordships' House and the amendment has been passed—I ought to be consistent and raise an eyebrow about this amendment. Can my noble friend explain why it is necessary and why it is not covered by Clause 4(1) of the Bill? There is an item in it on innovation:

"The need to encourage innovation in technology".

This is a requirement already in the Bill and seems sufficiently open to allow all the vast variety of new technologies to come along. I have no quarrel with the other amendments from my noble friend about samples and information and I am sure that they are totally right, but this amendment again focuses on carbon emissions and the storage of carbon dioxide in the North Sea. I would just sound a warning note that we are again close to a dangerous tendency to pick winners, something which has led to so much grief and sorrow

in the past because it led to a huge waste of resources and delayed the moves that we all want to see towards a more efficient energy industry and one more in line with meeting our climate obligations. Why does subsection (1) of Clause 4 not meet that, and why is the amendment necessary at all? The amendment states at the end that its aim is,

"to meet the target in section 1 of the Climate Change Act 2008".

That of course is the point. There are many paths to meeting our carbon budget in the climate change obligations. Earlier, I think the noble Baroness, Lady Liddell, mentioned the UN official Professor Jacquie McGlade, who was given airspace on the radio this morning about the UK's energy and climate policy. She seemed to be talking complete nonsense and seemed to believe that renewables targets were more important than our emissions targets, and that subsidising particular renewable technologies, regardless of their contribution to CO_2 reduction, was the key aspect of our commitment. That is precisely the trap into which the European Commission and European Energy Commissioners have fallen in the past; namely, trying to lay down the precise pattern of renewables to be backed and not backed. They have been trying to extricate themselves from the mess that they caused by that perception ever since at great cost, with great difficulties and with much uncertainty for the industry. When I see this kind of addition I realise why the Minister has probably put it in.

However, we have some real dangers to avoid. From the previous coalition we have inherited a legacy of considerable confusion, although I admit that I was part of that coalition. We have a legacy in the energy sector which is not at all happy and is leading to considerable ructions and many more difficulties ahead. I will pass over the fact that the targets have not been met at all when one takes into account per capita carbon emissions, let alone the other trilemma targets of affordability and reliability. That is for another debate, but can we please be careful that we leave open the path for all kinds of innovation in the future to meet our climate obligations, and that we do not get trapped into overemphasis on one particular path in order to meet the enthusiasms of those who believe that CCS is essential to be brought into everything? Perhaps it is or perhaps it is not, but let us be careful not to overegg this particular pudding.

Lord Foulkes of Cumnock: My Lords, I want to take up a point made by the noble Lord, Lord Oxburgh, with which he reinforced our concern about this Bill being rushed through and consideration not being made. We have just heard from the noble Lord, Lord Howell, about whether renewables can be equated with carbon production, which he challenges. As the noble Lord, Lord Oxburgh, said, these are the kind of things that could be and should be dealt with in pre-legislative scrutiny in the kind of get-together that he suggested.

I am not a fan of this non-elected House. I want to see a move towards a senate of the nations and regions. When we eventually get a Labour Government, we will move in that direction. However, again and again I hear from those who do like this nominated House that we have lots of experts on various subjects, and why do we not make use of them and get them together to provide that experience, insight and knowledge into the legislative process? If we get things rushed through in the way in which this is being rushed through, we are not able to do that.

We saw that again today at Question Time. Members who were present will have heard my intervention when I got really irate concerning the noble Lord, Lord Prior. I think that it was the noble Baroness, Lady Maddock, who said that it was not for the first time. The noble Lord seemed to be acting like a disinterested observer of what is happening in social care, which is being reduced enormously, and it was as if he could do nothing about it. He seems to forget that he is a member of the Government who is supposed to report to us and supposed also to take our views back to the Government to try to influence what they do. Ministers are not here just to read out the instructions that they get from the Civil Service and from down the corridor. They are here to listen to what Members of the House of Lords say, to take account of it and to pass it on. To be fair to the noble Lord, Lord Bourne, as my noble friend Lady Worthington said, he has taken account of some of the specific aspects that have been raised. But there are others that have been overlooked and I fear that there will be others that will be overlooked. I hope that I am proved wrong on Wednesday and that some account will be taken.

The noble Lord, Lord Howell, is about to disappear but I think even he would agree that, if not a direct equation between CO_2 emissions and renewables, renewables have a high correlation between their development and their expansion, and the reduction of CO_2. Not every renewable energy source is perfect and does not have some carbon emissions in the production of the equipment that it uses and so on, but producing this clean energy must be considered much better than the alternatives and all the ones that we have had in the past.

Incidentally, I should have declared an interest right at the start; I did so on previous occasions. I am a trustee and treasurer of the Climate Parliament. We argue very strongly at every opportunity we have in every parliament around the world to try to ensure that all countries, including the United Kingdom, are doing as much as possible to reduce carbon emissions.

Before I ask a specific question, I must say that the Minister is an eloquent man. As a Welshman, he is, like me, grieving at what happened over the last few days with the rugby results; in our case we were cheated out of a great victory. I have had dealings with him before he became a Minister and I have great respect for him, but even he, with all his Welsh eloquence, cannot argue that there has not been a deep depression in the renewable energy sector with what has happened over the last few months in solar energy—where we have seen and are seeing job losses because of the cutbacks—and now in onshore wind. We will talk more on this on Wednesday.

I ask the Minister one particular question: tomorrow we will hear the wit and wisdom of the President of China. It has been suggested that we should make all sorts of representations to him on human rights and discuss with him a range of issues concerning trade

[Lord Foulkes of Cumnock]
and co-operation in a variety of fields. Specifically, will we talk with him about energy in general, and in particular about the Green Grid alliance? At the United Nations, the Chinese President said that he is in favour of a global energy network for clean energy. The Chinese corporation dealing with this has put a lot of resources and thinking into developing a grid that takes energy from areas where it is produced cheaply and regularly, such as the deserts where solar energy is produced, and channelling it through a green grid to areas where it is used and needed.

I hope that at some point in his visit, Ministers—if not the Prime Minister—will raise with the Chinese President how the United Kingdom Government can co-operate with the Chinese Government on this. They are very far-thinking. They have great resources, a great number of people and great knowledge. I hope that we will pursue this with them, that we will take the opportunity to raise it with him when he is here and follow it up in the weeks and months to come.

Lord Teverson: My Lords, I shall speak to my Amendments 15 and 18, and to Amendment 72 in the name of the noble Lord, Lord Oxburgh. I am very pleased that the noble Lord, Lord Foulkes, mentioned the President of China because tomorrow we have to interrupt an Economic Affairs Committee meeting. I suggested that we might ask the President to be a witness on some of these issues, but unfortunately I do not think that that got anywhere.

I welcome a number of the government amendments in terms of their nod to the environment. My amendments look to try to place the OGA and this part of the Bill in the context of the broader climate change and environmental debate. We do not have those amendments completely right. In fact, I rather prefer the amendment of the noble Baroness, Lady Worthington, although I am not sure how far she will press it. As I said previously, although the OGA needs to focus on its prime areas in doing its day-to-day business, it needs to operate within this broader environmental area, as does the whole regime.

5.30 pm

Certainly, in the days of the coalition Government, there were four aspects of energy policy to which both parties involved were fully committed. One was low carbon, partly renewables but also nuclear energy. That just about staggers along on the nuclear side, as we have discussed. The renewables have suffered a number of quite severe setbacks over this year since the election. Secondly, there was energy efficiency, which as we all know satisfies all three elements of affordability, decarbonisation and energy security. Certainly, the Green Deal needed changing a lot but to opt out of that was most unfortunate. However, taking away the zero-carbon homes trajectory for 2016 was an act of gratuitous violence on a low-carbon agenda. Thirdly, the carbon tax floor has now been frozen by the Treasury. I think it rather enjoys the revenue coming from it, although that has to be combined with the reimbursement process for high-intensity users. Fourthly, there was carbon capture and storage. That is why this measure is so important in making sure that at least that fourth part of the energy strategy goes forward. That is why I have added my name to the amendment of the noble Lord, Lord Oxburgh.

As I said on Second Reading, I became rather sceptical about carbon capture and storage because, since I have been in the House, it has been very difficult to make progress on it. Although the Government say that the fact that Drax has withdrawn from the White Rose project is not fatal, as the facilities can still be used and the other investors are still there, it seems to me to make the task even more difficult. This measure provides a key way forward in delivering a carbon capture and storage strategy that investors, industry and people involved in the energy sector more generally need to provide them with certainty and a trajectory for the future.

The noble Lord, Lord Howell, mentioned not picking winners. I agree with that in principle. Indeed, contracts for difference were set up in that way. However, the whole area of decarbonisation and decarbonisation targets is technology neutral. That is why I am particularly disappointed that we were given to understand in Committee that the Government would not seek to implement the decarbonisation targets set under a previous Energy Act. That provided an opportunity to adopt technology neutrality and I regret very much that another part of the jigsaw of moving towards our climate change targets has been taken away.

Baroness Worthington: My Lords, I am grateful to the noble Lord, Lord Oxburgh, for introducing his amendment, to the other noble Lords who have spoken in this debate, and to the Minister for introducing the government amendments starting with Amendment 12.

I do not wish anything that has happened today to undermine our great welcome for the way in which the Minister responded to our debate on CCS. The amendments that we are debating are testimony to how much the Minister has listened and taken on board the comments that were made. We very much welcome the measures, specifically the changes on making explicit the use of sampling and on the sharing of information and, indeed, the addition of government Amendment 12 to Clause 4, which sets out the matters to which the OGA must have regard. The amendment has both an explicit reference to carbon dioxide and the meeting of climate change targets. This is indeed very welcome and I certainly support the amendment being added to the Bill.

Because the Government's amendment is comprehensive, we will not pursue Amendments 13 and 14 any further. We are delighted that those measures will now be included. I wish to speak also to Amendment 72, which the noble Lord, Lord Oxburgh, tabled and to which I was very pleased to add my name; and to what was my own Amendment 78, to which the noble Lords, Lord Oxburgh and Lord Teverson, have added their names, which is replaced by a manuscript amendment. I apologise for that but we felt that it was important to clarify a change of wording for that amendment. I shall come on to that.

As we are considering in more detail the environmental and climate change aspects of the Bill, I should declare a potential future interest, as I did in Committee.

As many noble Lords may be aware, I shall be stepping down from the Front Bench in a matter of weeks. I am in negotiation with a charity that works on climate change issues, so I felt that I should declare that potential future interest.

Amendment 72, in the name of the noble Lord, Lord Oxburgh, would require the Government to undertake and develop a national strategy for carbon capture and storage. This amendment has a great deal of merit. It was excellent to meet the Minister and officials from his department. As has been mentioned, Stuart Haszeldine from Edinburgh University was present. It was a very good meeting and it became clear in the debate that there is an awful lot to do in the world of carbon capture and storage. However, "carbon capture and storage utilisation" is possibly the phrase we need to start using. That addresses some of the points made by the noble Lord, Lord Howell, about the fact that there is not just one version of carbon capture and storage but potentially many with different attributes, in the same way that there are many renewables technologies with very different attributes.

Carbon capture and storage is a grouping of technologies with different aspects, technologies and uses and different storage end points, some of which are stored underground, some of which might be onshore and some of which might be offshore in disused oilfields or, indeed, in oilfields that continue to be used through enhanced oil recovery. However, there may be other forms of storage, including in mineralised aggregate and as a chemical feed into various other processes. I sense a mood change within industry towards wanting to have a much more in-depth discussion about the use of CCS going forward.

As we face our climate change targets going forward, and in particular the embodiment of those targets in the emissions trading scheme, which creates a hard cap on our industrial sectors that declines over time, we will have to develop a technology to enable us to maintain primary production in this country to keep a thriving and, we hope, growing industrial base. It is going through some difficult times at the moment, but we need to find a policy that will enable us to attract inward investment into industry to help it decarbonise, in the same way as we have done for renewables in the power sector. A strategy is definitely needed, particularly for those industrial players. Although it is welcome that we hope to have two demonstration projects proceeding in the power sector, which will potentially open up useful infrastructure that can be reused, there is very little in the way of policy for industrial players that helps them to decarbonise. They have an incentive to decarbonise in the shape of the carbon price but that is often softened by receiving compensation payments. However, there is no carrot. There is a stick and then there is compensation but there is no bankable, investable policy that would cause them to make a positive investment.

That is an urgent challenge for the UK to get its head around; otherwise, my fear is that we will see more closures, as we have seen at Redcar with SSI, which was meant to be a big element of the Teesside decarbonisation cluster. That closure removes one of the elements of that strategy, which would have led to a carbon capture and storage hub, which would have decarbonised our industrial bases there and, I am certain, would have attracted investment from Europe and elsewhere because it would have been future-proofed. You could locate there, reinvest in industrial manufacturing and production, and be confident that you had a place to store your CO_2 and therefore not just be compensated but actually avoid the need to pay carbon prices. So a strategy is definitely needed for industrial sectors.

Some ideas have been floated. One is that, just as we have a contract for difference in the power sector, it would be possible to have a contract for difference in the industrial sectors. You would not be able to do it off the power price, clearly, but you could do it off the carbon price. You could give some investor certainty that you will be compensating for the fluctuating carbon price and give a degree of confidence so that an investor could go to the bank and say, "On the back of this I am going to receive compensation from these contracts and we should go ahead and invest". Those are the sorts of things we need to see in this strategy as we go forward.

Our strategy on the capped sectors—those subject to the EU ETS cap; that is, power and industrial—still leaves more than half the economy's emissions uncapped and very little in the way of a wholesale comprehensive policy to decarbonise those sectors. Those uncapped sectors are largely serviced by the oil and gas industry; that is, the transport and heating sectors, in so far as heating is used in buildings, as opposed to primary manufacture and production. Those uncapped sectors, which affect the oil and gas industry, are a very important part of what we need to get our heads around and what we need to address as we look at our targets, because clearly our targets are economy-wide. They are set out in the carbon budgets we have set ourselves to meet our requirements under the Climate Change Act.

In the way we currently treat the carbon budgets, the uncapped sectors actually cause us the greatest difficulty because we do not have an EU-wide emissions trading scheme or low-carbon incentives in the form of CFDs, and we have fewer levers. We have the renewable transport fuel obligation and the renewable heat incentive, both of which, as the names suggest, incentivise investment only into renewables. They do not do anything for carbon capture and storage in those transport and heat sectors, and nor would they for nuclear. I happen to believe that in the future, we will probably be able to deliver nuclear into those sectors. We are not there yet, but we are close to being able to see how CCS could contribute in those sectors. I should say again that CCS is the broad technology that includes CCU, which would give us a number of technologies to work from.

We have a curious situation where we have a relatively challenging target on the uncapped sectors but almost no comprehensive policies to incentivise decarbonisation. This is where Amendment 78A comes in. This idea was discussed in Committee. It may be ahead of its time and we may need some more discussions. I very much look forward to the department facilitating such discussions after the Bill leaves this House. The fundamental question is: how can we get to a more market-based form of incentive to help decarbonise

[Baroness Worthington]
heat and transport? I do not think we can rely on renewable heat incentives paid for by taxpayers, and nor is the renewable transport fuel obligation the answer. There has to be something much more technology-neutral and market-friendly, whereby industries and the private sector can find and select the best projects to help with that task.

The idea we debated in Committee was that we would ask providers and importers of fossil fuels into the UK—whether they are extracting here from the North Sea or onshore, or importing from overseas—to invest in projects which permanently stored and reduced emissions. We have come back with Amendment 78A as a reworked version of that. It is not the perfect wording by any means—it is still a probing amendment—but we felt it important to re-table it because there is the germ of an idea here which will help the Government, and the UK in its move towards economic growth, to harness the power and ingenuity of the private sector in delivering us least-cost decarbonisation.

5.45 pm

The idea, simply put, is that we would require a very small portion of the emissions embedded in those oil and gas products to be certifiably stored, and that would then rise over time. It would be entirely up to the importers and extractors to decide how they would meet that obligation and it would certainly not apply just to UK extractors; it would also apply to imported fuels so as not to distort. I think there is a great deal of merit in exploring that idea further. As I said, Amendment 78A is still a probing amendment but I hope that, following on from the Bill and in the spirit of collaboration that has now emerged on this issue, we can look at that and perhaps incorporate it into the strategy referred to in Amendment 72, which is intended to be a comprehensive strategy.

I am delighted that carbon negativity has come up, and I am grateful to the noble Lords, Lord Oxburgh and Lord Howell, for mentioning it. It is an anomaly. As I mentioned, we have these carbon budgets, and both the inventory submitted at international negotiations and our own budgets would credit negative emissions if we had the right mechanism to do so. We could be helping to meet our targets through the use of carbon-negative technologies, both domestically and internationally, if we could just find a way to certify that and make sure that it was done well. It is certainly not beyond our wit to be able to certify such things. If you move in the world of engineering solutions to climate change, as I do, you meet many people who already have or are very close to having projects that deliver carbon-negative emissions. One I am particularly fond of—it is near to where I live in Cambridgeshire—is the Carbon 8 company, which takes hazardous waste from an incinerator, combines it with CO_2 derived from a biomass plant and turns it into a permanent aggregate which is then made into building materials that can be used to build buildings and infrastructure.

Viscount Ridley (Con): Does the noble Baroness agree that those of us who are farmers take carbon dioxide out of the air as much as we can every summer—and then unfortunately put it back into the air by feeding it to people in the winter?

Baroness Worthington: Thereby hangs the problem—it is put back into the atmosphere. These carbon-negative technologies would have to be permanently stored and would have to be over geological timescales, or at least decadal timescales, in order to help in tackling climate change. Of course, CO_2 is part of the biosphere but we are talking here about fossilised CO_2 that built up over millennia and is being released over a much shortened timescale—a massive chemical experiment that we do not yet know the consequences of.

This could be a rich seam for policymakers and the department, which has already moved a long way in improving the Bill. I certainly hope that if we carry on in this spirit, we will resolve these issues of how to get CCS and CCU deployed so that we can save our industries, attract inward investment and reuse infrastructure sensibly. We could do that through a strategy or the creation of a group—there must be many ways in which this can be done. An Energy Bill should be addressing these issues. They are urgent—we are losing our industrial players—but on the plus side many innovative engineers around the country are coming forward with great ideas. We need to capture that, turn it into something tangible, use it to comply with our obligations and show that we can do decarbonisation at least cost while preserving our industrial might. If we can do that, we shall have an example to show the Premier of China, whom I am sure is grappling with this too.

There is not a single industrialised country that does not now have in its mind how it is going to create steel in a low carbon environment. How is cement going to be produced? What about plastics? We cannot simply ignore that aspect of the decarbonisation challenge. I am not saying that the Government are ignoring it, but we do seriously need to get going now in thinking this through—sooner rather than later—so that we do not see any more unfortunate examples of employers in our heavy industries leaving these shores. We need to keep them here and we need to set incentives for reinvestment. CCSU is one of the few groups of technologies that enables us to do that successfully. We must press on.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords for their contributions. I shall try to deal with these and then come back to the amendments that I believe were addressed, namely Amendments 71, 72 and the manuscript amendment, 78A.

I thank the noble Lord, Lord Oxburgh, for his kind comments and reiterate the point about £1 billion being committed to CCS projects. His points on carbon negativity—also mentioned by the noble Baroness, Lady Worthington, and my noble friend, Lord Howell—are well made. I shall come on to those in a broader context later.

My noble friend Lord Howell asked about the need for the government amendment in the light of the item under Clause 4(1) which already refers to innovation and working practices in general terms. The point here is the need for specificity. Clearly in the context of the North Sea there is a particular point about CCS, hence the government amendments. These strike the right balance. Without picking winners, we need to

recognise that there is a particular opportunity in relation to the North Sea and particularly in relation to decommissioning—an almost unique opportunity for the United Kingdom to ensure that we focus on CCS. That is something that the OGA and its director, Andy Samuel, recognise, too.

The noble Lord, Lord Foulkes, was at his disarming best. I find that that is when he is at his most dangerous, so I have to be careful. I thank him for his kind comments, share his upset about both rugby matches and recognise the particular point about Scotland being robbed. That is absolutely right.

The noble Lord asked about China and the meetings that the Secretary of State would be having during the course of the next couple of days. She already has met with the Minister for Energy to discuss particular issues. From what I can gather, that process will be going on over the next couple of days. Additionally, it is important to note that this contact with China is not isolated. Members of its rough equivalent of our Committee on Climate Change were here recently. The Secretary of State met with them, as did I and my noble friend Lord Deben. Clearly China is a massive player in relation to energy so it is important that we have this continuing dialogue. It is certainly happening. If I have any more specific points about the Green Grid alliance I shall write to the noble Lord.

The noble Lord, Lord Teverson, agreed with the thrust of the non-government amendments and the broader environmental considerations. As I have said, we have done our best. I shall deal with these more specifically to ensure, as I believe is already the case, that environmental considerations are covered. I shall touch on that shortly.

As I said previously, I wish the noble Baroness, Lady Worthington, well in her new role, as I am sure the whole House would want to do. I could sit and listen to her for a long while on energy because I think that she knows far more than any of us in this House. I am sure that her commitment and her knowledge will be a massive plus to the organisation to which she is going. I know that she will have a continuing important role in this House so that we will not lose her considerable, massive expertise in this area.

The noble Baroness referred to the steel issue. I was at the summit in Rotherham that the Government held on Friday. The steel issue in relation to the United Kingdom is very complex. At its root, perhaps, is overproduction in China, which is more than twice total EU production. That sums up the problem. There are many aspects to it, and one is procurement. The procurement rules in Europe have been relaxed considerably in our favour. We are the first country to sign up to those new rules, so I hope that we shall be in a position to benefit from that. However, I do not pretend that that is a silver bullet. It is not. There are clearly many issues there. I agree with many of the points that she was making.

The noble Baroness asked about decarbonising industry and particularly mentioned Teesside. We are currently reviewing the findings from the Teesside feasibility study that was published in July and will work with industry on the policy framework on that.

Let me turn to some specifics on Amendments 72 and 78A. I thank the noble Lord, Lord Oxburgh, for speaking to Amendment 72, which seeks to place a duty on the Secretary of State to produce and implement a CCS strategy. As the Government have set out, and as the noble Lord rightly underlines, CCS has the potential to play a vital role in decarbonising our power and industrial sectors. The Energy Technologies Institute estimates that CCS could halve the cost of meeting our 2050 emissions reduction target from £60 billion to £30 billion.

Plants fitted with CCS technology could reduce CO_2 emissions from coal and gas power stations by around 90%, enabling clean, dispatchable power powered by coal or gas to play a role in a decarbonised UK economy. This would contribute to secure, resilient energy supplies for consumers. That is why the Government have in place one of the most comprehensive CCS programmes in the world, as recently recognised by the independent Global CCS Institute and to which allusion has been made. Our commitment to supporting CCS is clear. The CCS road map published in 2012 set out the long-term plan to support CCS through the CCS Commercialisation Programme, research, development and innovation, electricity market reform, a strong regulatory environment and international collaboration. Our CCS competition is potentially providing up to £1 billion support, as has been acknowledged.

We have invested over £130 million since 2011 to support research, development and innovation to foster the next generation of CCS technologies, including £2.5 million in a recent project to scope promising CO_2 storage sites—key to developing a viable CCS industry here in the United Kingdom. We also recognise the real potential offered by CCS as a long-term route to help United Kingdom industries such as iron, steel and cement to decarbonise. We invested £1 million to explore the business case for industrial CCS on Teesside. We are also looking ahead. The CCS policy scoping document published last year set out the key issues for the medium-term development of CCS in the UK. We are actively engaging industry on the challenges facing future projects and how Government can best design a framework to overcome them.

I understand that noble Lords are keen to support the deployment of CCS in the United Kingdom. The noble Lord, Lord Foulkes, expressly mentioned the need for a government response. That is why, in one of the meetings that we held looking at CCS, I suggested setting up a CCS Peers' group as a sort of ginger group. I have asked the noble Lord, Lord Oxburgh, to chair that group. That would be a good way forward. I should be happy to look at advice, obviously without commitment. It would be a way of feeding in the expert advice which the noble Lord, Lord Foulkes, has quite rightly said exists in this House. It would help to shape what is, as I think that we all agree, an important area of policy.

I hope I have reassured the House that we are serious about realising the potential of CCS in the United Kingdom and that we have in place a robust support framework. Our proposed amendments on the role of the OGA with regard to CCS underline this.

6 pm

I thank the noble Baroness for her explanation of manuscript Amendment 78A, which seeks to insert a new clause into the Bill that would require the Government to consult on measures requiring extractors and importers of petroleum to contribute to the development of reduced carbon emissions technologies in the United Kingdom. Noble Lords will know that the regulatory measures in this part of the Bill result from a specific set of challenges highlighted in the Wood review. These have been endorsed by industry and are given increased urgency by the fall in global oil prices.

Were Amendment 78A to be accepted, a consultation would need to take place on measures the industry would be required to take to contribute to an as-yet unquantified and uncosted obligation. To be fair, I accept that the noble Baroness set out that this was a rough-hewn amendment. However, it would, as framed, involve additional burdens on industry at a time when it faces unprecedented challenges and would risk diluting the objective of maximising the economic recovery of offshore United Kingdom petroleum. It is vital for the UK economy and our energy supplies that the continental shelf remain competitive in a global market. Introducing additional costs to the industry would reduce the attractiveness of the continental shelf and would pose a significant threat to all of the positive work that is being done.

Baroness Worthington: By way of clarification, I do not think that I stressed enough that this would apply not just to UK operations but, significantly, to the increased importation of fuels in the oil and gas sector. Obviously, it would be excellent if the Treasury could use the funding that would flow from that to invest in UK infrastructure for decarbonisation. This is not intended as a punitive measure for UK operators but as a way of addressing the fact that an entire half of our economy—fuels that we use for heat and transport—is uncapped, with no explicit carbon price. This would be a way of dealing with that and having that money flow from the ultimate sources of these imported fuels, which are overseas, into UK infrastructure.

Lord Bourne of Aberystwyth: I thank the noble Baroness for the clarification. She identifies a problem that does exist. We are looking, as I think I indicated previously, at regulation in relation to the transport sector, which is probably more realistic and a more likely runner at the moment. I accept the spirit in which she has tabled the amendment, but I do not think that we are in a position where we can accept what I would see as additional cost burdens on industry at this stage. That said, I believe that the offer to the noble Lord, Lord Oxburgh, has been accepted, subject to his busy diary, and I hope that we can move forward with that. Perhaps in that context we can look at proposals like this and at possible developments in the industry. I urge noble Lords not to press these amendments.

Amendment 12 agreed.

Amendments 13 to 15 not moved.

Amendments 16 and 17

Moved by ***Lord Bourne of Aberystwyth***

16: Clause 4, page 3, line 32, leave out "does not include any" and insert "means any function of the OGA, including any function under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), other than a"

17: Clause 4, page 3, line 34, at end insert "or an agreement under section 3(3)."

Amendments 16 and 17 agreed.

The Deputy Speaker (Lord Geddes) (Con): I should advise noble Lords that Amendment 18 has been placed incorrectly in the Marshalled List—it is an amendment to Clause 5.

Clause 5: Directions: national security and public interest

Amendment 18 not moved.

Consideration on Report adjourned until not before 7.04 pm.

European Council

Statement

6.04 pm

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, with the leave of the House, I will repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows:

"With permission, Mr Speaker, I would like to make a Statement on last week's European Council. The main focus of the Council was on migration, but there were also important discussions on Syria and on the UK's renegotiation. Let me take each in turn.

The European Union is under massive pressure over the migration issue. The numbers arriving remain immense. Some countries have attempted to maintain and police external borders; others have waved migrants through. Eight thousand people are arriving in Germany every day. The Schengen zone response is to establish hotspots in the countries where most are arriving so that they can be properly processed, and then have a mechanism for distributing migrants across the EU. This is what most of the Council's discussions and debates were about.

Of course, the UK does not take part in Schengen. We have maintained our borders while others have taken them down, and we are not participating in the quota system for migrants who have arrived in Europe. Instead, we are taking 20,000 Syrian refugees straight from the camps. We think this is the right approach.

I will turn to some of the specifics of how the EU is planning to help ease this crisis. First, on aid to the affected area, Britain was praised for its contribution to the World Food Programme, where we have provided $220 million out of the $275 million shortfall needed

to close the funding gap for the rest of the year. The Commission President made a particular point that the rest of the Council members should do more and follow Britain's lead on this point. It is still the case that the United Kingdom has spent more on aid for Syrian refugees than any other EU country—indeed, more than any other country in the world save the United States of America.

Secondly, the EU agreed in outline a new joint action plan with Turkey. This includes potential additional financial support to help with the huge volume of refugees—more than 2 million in Turkey—and assistance with strengthening its ability to prevent illegal migration to the EU. While the terms of the EU's assistance remain to be finalised, any visa liberalisation agreed under the action plan will not, of course, apply to the UK. We will continue to make our own decisions on visas for Turkish nationals.

Thirdly, we agreed more action to stop criminal gangs putting people's lives at risk in the Mediterranean. The EU's naval operation is now moving to a new phase, in which we can board ships and arrest people smugglers. Britain played a leading role in securing the United Nations Security Council resolution that was required to make this possible. The Royal Navy ships HMS "Richmond" and HMS "Enterprise" will help deliver the operation.

Fourthly, obviously the most important thing is to deal with the causes of the crisis, in particular the war in Syria. The Council condemned the ongoing brutality of ISIL. When it comes to Assad, the conclusions are equally clear:

'There cannot be a lasting peace in Syria under the present leadership'.

I presented to the Council the facts about Russia's intervention, with eight out of 10 Russian air strikes hitting non-ISIL targets. The Council expressed deep concern over Russia's actions, especially attacks on the moderate opposition, including the Free Syrian Army. Our view remains the same: we want a Syria without ISIL or Assad.

Ahead of the Council I convened a meeting with Chancellor Merkel and President Hollande. We agreed the importance of a renewed diplomatic effort to revive the political process and to reach a lasting settlement in Syria. We agreed that, together with our US allies, we must seek to persuade Russia to target ISIL, not the moderate opposition.

The three of us also discussed the situation in Ukraine. We welcomed recent progress and agreed the need to maintain the pressure of sanctions on Russia until the Minsk agreement has been fully implemented.

Turning to the UK's renegotiation, I have set out the four things we need to achieve. The first is on sovereignty and subsidiarity, where Britain must not be part of an 'ever closer union' and where we want a greater role for national Parliaments.

Secondly, we must ensure the EU adds to our competitiveness rather than detracting from it by signing new trade deals, cutting regulation and completing the single market. We have already made considerable progress. There has been an 80% reduction in new legislative proposals under the new European Commission and we have reached important agreements on a capital markets union, liberalising services and completing the digital single market. Last week, the Commission published a new trade strategy that reflects the agenda that Britain has been championing for years, including vital trade deals with America, China and Japan, but more needs to be done in this area.

Thirdly, we need to ensure that the EU works for those outside the single currency, protects the integrity of the single market and makes sure that we face neither discrimination nor additional costs from the integration of the eurozone.

Fourthly, on social security, free movement and immigration, we need to tackle abuses of the right to free movement and deliver changes that ensure that our welfare system is not an artificial draw for people to come to Britain.

As I have said before, those are the four key areas where Britain needs fundamental changes, and there is a clear process to secure them. The Referendum Bill has now passed through this House and is making its way through the other place. I have met with the other 27 leaders, the Commission President, the President of the European Parliament and the President of the European Council, and will continue to do so. Technical talks have been taking place in Brussels since July to inform our analysis of the legal options for reform. There will now be a process of negotiation with all 28 member states leading up to the December European Council. As I said last week, I will be writing to the President of the European Council in early November to set out the changes we want to see.

Throughout all this, what matters to me most is Britain's national security and Britain's economic security. I am interested in promoting our prosperity and our influence. We have already made some important achievements. We cut the EU budget for the first time ever. We took Britain out of the eurozone bailout mechanisms—the first ever return of powers from Brussels to Westminster—and we vetoed a new treaty that would have damaged Britain's interests. Through our opt-out from justice and home affairs matters, we have achieved the largest repatriation of powers to Britain since we joined the EU. We have pursued a bold pro-business agenda, cutting red tape, promoting free trade and extending the single market to new sectors.

I want Britain to have the best of both worlds. Already, we have ensured that British people can travel freely around Europe, but have at the same time maintained our own border controls. We have kept our own currency while having complete access to the single market. I believe we can succeed in this renegotiation and achieve the reform that Britain and Europe need. When we have done so, we will put the decision to the British people in the referendum that only we promised and that only this Conservative majority Government can deliver. I commend this Statement to the House".

My Lords, that concludes the Statement.

6.12 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the noble Baroness for repeating the Statement that the Prime Minister made in the other place. I suppose that we should not be too surprised that the

[Baroness Smith of Basildon]
issue that is talked about so much outside the European Council meetings was not formally debated at this Council meeting but yet again deferred until December. I certainly understand why the Prime Minister would want that, but do the Government really understand that it is not just the British public or Conservative politicians who need clarity? Even Angela Merkel, the German Chancellor, has asked for greater clarity about the Prime Minister's intentions. The problem is that it appears that the Government do not themselves know what they are proposing. That creates greater uncertainty, and when there is such uncertainty, it allows rumours and speculation to take hold.

The issue raised in the other place but not answered was on one of those rumours, concerning the protection of those working here in the UK. Both the working time directive and the social chapter have served British workers well, and I hope that the noble Baroness can confirm from the Dispatch Box that the Government also value the rights of those in employment and that the speculation that they could be undermined or scrapped is completely and totally unfounded.

Of great interest to your Lordships' House are the European Convention on Human Rights and the Human Rights Act. When the Labour Government signed up to that convention, they ensured that British citizens did not have to leave the UK to pursue their rights but could do so at in their home country within the UK legal system. It was bringing rights home. Can the noble Baroness clarify the Government's position on this?

We support the right of national Parliaments to have a greater influence on EU legislation—and so the proposed red card mechanism. That was a commitment in our manifesto at the election and we stand by it.

We also support European co-operation on a wide range of issues. The Government have to understand that on so many issues, we need co-operate with European partners if we are to have any significant impact. I refer to issues such as crime and climate change, on which we had debates earlier in the year, corporate regulation, tax avoidance and, indeed, people trafficking. We have seen the result of that in the Mediterranean. Our acceptance and promotion of European co-operation in these areas strengthens our case for EU co-operation on refugees and Syria.

We have been clear: we do not support business as usual, we support reform. But we want to be part of that reform and have influence on it, not merely shouting from the sidelines with no credibility or influence. The noble Baroness may remember—her Chief Whip certainly will—debating the Government's hokey-cokey of the opt-out, opt back in again to tackle the most serious and organised crime. We were disappointed that the Government's approach was more about political management than about the important and serious issues at stake. If the Prime Minister is to have any success in his negotiations, he must be convincing that he has changed and believes in a Britain at the heart of Europe with serious influence within it.

The Leader of the House will be aware of the amendments tabled to allow 16 and 17 year-olds to vote in the EU referendum. I hope that she understands why we have tabled them. First, it concerns the future of these young people. A decision on a referendum is way beyond a decision for the next general election or council election; it is the most important of decisions, not just a one-term decision. We saw in Scotland that when young people, 16 and 17 year-olds, were engaged in the debate and decision-making about their future, they were fired up about the issue. It was the right thing to do then, and it is the right thing to do now.

I will not press the noble Baroness on the substance of the issue today, but will she think a bit further about what it really means to extend and engage that wider franchise? I know that the noble Baroness, Lady Anelay, spoke about it as being the same franchise as for a general election—"except". One of those exceptions is that it has already changed to allow Members of your Lordships' House to vote. I welcome that; I miss greatly not having a vote in a general election, so I welcome the fact that the law is being changed to allow me and your Lordships to vote in the referendum. But with the greatest respect to all of us here, most 16 and 17 year-olds will have to live with that decision a lot longer than we will. It will have a far greater impact on their lives. I find it difficult to accept that we in this House can have the vote but 16 and 17 year-olds cannot.

Over the weekend, I read yet again about the tragic deaths of children and their families when trying to find sanctuary. I worry that images of the distraught and the dying are becoming so regular that they no longer convey the absolute horror of the refugee crisis. There is a responsibility on all European nations to act in a co-ordinated way, first, to help the refugees but, secondly, to deal with the reasons why so many are fleeing and to try to resolve the conflict that is driving Syrians to leave their homeland.

We commend the Government on the level of aid that they have provided to refugee camps in Lebanon and elsewhere in the region. That is welcome and has been supported on all sides of your Lordships' House. However—this is where the gap is—we must do more to aid those who have come to Europe. I understand that Turkey has now requested £2.2 billion to aid and support it in dealing with 2.5 million refugees who have come to the country. There was some information in the Statement, but can the noble Baroness tell us more about the negotiations regarding that request? What negotiations were there at the Council for all the countries of Europe to welcome their fair share of Syrian refugees?

Yvette Cooper, who is heading up Labour's task force on refugees, said:

> "There is chaos at borders across Europe, people are dying and children are walking miles, sleeping in the open despite the falling temperatures. It is unbelievable we are seeing scenes like this in a continent which includes four out of the top ten richest countries in the world".

The Minister responsible for Syrian refugees was unable to provide figures to the Home Affairs Select Committee a few days ago regarding how many Syrians were accepted under the Government's vulnerable persons relocation scheme. The question was also asked in the other place. Can the noble Baroness update the House now on how many have been accepted? Also, European Council conclusion 2(d) states that we should be,

> "providing lasting prospects and adequate procedures for refugees and their families, including through access to education and jobs, until return to their country of origin is possible".

We have an Immigration Bill going through Parliament. To ensure that we are able to comply with those words from the European Council, can the Minister confirm that, if necessary, amendments will be made to the Immigration Bill?

If the UK played a more positive role on this front, it might create good will in Europe to make headway in the forthcoming negotiations. It is right that we take firm action against the evil trade of people smuggling and I was interested in the comments in the PM's Statement. Can the noble Baroness provide any information about the naval operation and the Royal Navy's role? If she does not have that information to hand today, I would be happy for her to place it in the Library. And would the Prime Minister agree that the refugee crisis will not be resolved without greater efforts from all countries, and therefore look at the UN target percentage of GDP on international development? This country has taken a lead in ensuring we meet that 0.7%. I congratulate the Government on that as well, but will the Prime Minister work with us and across the House to put pressure on other EU countries as well?

The situation in Syria, which the Statement also covered, is complex and we welcome the words of the European Council that:

"The EU is fully engaged in finding a political solution to the conflict in close cooperation with the UN and the countries of the region".

However, the Statement also recognises,

"the risk of further military escalation".

The humanitarian crisis has seen half the population of Syria leave their homes—millions to neighbouring countries, which have borne the greatest burden—and hundreds of thousands of innocent civilians from Syria have been killed, the vast majority at the hands of Assad's forces. Clearly, a political solution is essential and that means the world needs an answer to ISIL's abhorrent brutality, which also threatens us here in the UK. So we need concerted action to cut off the supply of money, arms and fighters; we need a co-ordinated plan to drive back ISIL from Iraq and from Syria. The noble Baroness will be aware that if the Government were to consider working with their allies to establish safe zones within Syria, some of the millions of displaced people could return to their homes, humanitarian aid could get in, and we could stop the killing that has gone on for far too long. When I listened to the Statement in the other place, I heard the PM's response to the request to urgently seek a new UN Security Council resolution on a comprehensive approach including action against ISIL. I thought his response was disappointing, so can the noble Baroness say whether there have been any discussions at all with the Security Council members?

Finally, with regard to Libya, the European Council conclusions state that:

"The EU reiterates its offer of substantial political and financial support to the Government of National Accord as soon as it takes office".

Can the Minister give us any indication on the possible timescale and process for this to take place?

The Statement refers to promoting national and economic security. Will the noble Baroness agree that promoting British influence in European decision-making is also important?

Lord Wallace of Tankerness (LD): My Lords, I also thank the noble Baroness the Leader of the House for repeating the Statement made by the Prime Minister on last week's European Council. It appears that, when we have these Statements, the agenda may be very much the same but these very serious and profound issues are no less intractable.

It is clear from the Prime Minister's Statement that the issue of migration and refugees was what most of the Council meeting was about. As the noble Baroness, Lady Smith of Basildon, has said, we still have regular reports on our TV screens that provide visual reminders of the suffering of—and, indeed, deaths of—many of those who are trying to escape the oppression in Syria and trying to find a better life for themselves in Europe. The issue is no less problematic now, and indeed I rather suspect that as we approach the winter months and see the effect that the winter weather will have on the refugees, there will be some even more harrowing pictures and scenes.

The Prime Minister in his Statement says that,

"the UK does not take part in Schengen … we are not participating in the quota system for migrants who have arrived in Europe".

He says that as if, in some way or other, it was a badge of honour. I accept there is no legal obligation, as we do not take part in Schengen, for us to take refugees under the EU relocation scheme, but on these Benches we would argue that there is a strong moral obligation to play our part. I believe that would be consistent with the letter to the Prime Minister that was subscribed by a number of Bishops of the Church of England and published at the weekend, which said that it would be consistent with,

"this country's great tradition of sanctuary and generosity of spirit".

I hope and believe it should not be a question of either/or—of either taking part in the EU relocation scheme or doing other, very valuable work. I applaud the work that the Government have done in the support and help that they have given to those in the refugee camps in Jordan, Lebanon and Turkey and, indeed, on their commitment to bring—perhaps we would argue for more, but nevertheless they are bringing some—more vulnerable people from there to the United Kingdom. However, it should not be an either/or; we should do that and also be willing to make a meaningful and substantial response to the human suffering that we see in our own continent.

I acknowledge what we are doing, but on a specific point I remind the noble Baroness that, when we had a Statement on this issue when we were back last month, I raised with her that there had been a report that 600 young Afghans had arrived in the United Kingdom—unaccompanied children—who were then deported after their 18th birthday because their temporary leave to remain had expired, albeit that many had by that stage established very strong roots in the communities where they were living. When my noble friend Lord Ashdown of Norton-sub-Hamdon pressed the Leader of the House on this matter, she said:

"I am not suggesting that there is a new set of rules, or a change to existing rules, because of this expanded refugee programme at this time".—[*Official Report*, 7/9/15; cols. 1258-59.]

[Lord Wallace of Tankerness]
I would hope that, in the intervening weeks, the noble Baroness and the Government have had an opportunity to consider that. If we are taking in people—and it will often be the more vulnerable people, including children, from the refugee camps—and if many of them come and settle here and make their roots here, I am not quite sure what they feel about the thought that they could be sent home without further ado on their 18th birthday. Again, that is another moral issue to be considered.

On the question of Syria, we will certainly continue to condemn the brutality of ISIS and we support the conclusions of the European Council that there has to be a political settlement. Indeed, there needs to be much greater emphasis on the possibilities for diplomacy, including possibly looking at issues such as something similar to a treaty-based, Dayton-style regional agreement as happened in the Balkans, which would be supported by neighbouring countries as well as the major powers. Are the Government giving consideration to that and to doing more to draw Iran into the process, which I rather suspect could be a very influential player in trying to achieve the kind of political solution referred to in the Council communiqué?

We certainly welcome the EU-Turkey action plan. It is important to recognise the burden that Turkey has to bear in accommodating refugees and it would be interesting to know particularly what the Government propose to do to support that action plan. Given that it is now some considerable time since Turkey applied to join the European Union and it has been the policy of successive Governments to support that application, can the noble Baroness indicate whether it is still the policy of Her Majesty's Government—provided, of course, that Turkey meets and signs up to European Union values, including on human rights issues—that it would be our intention to support Turkish membership of the European Union?

On the issue of renegotiation, the Prime Minister had indicated four broad heads of discussion, and I think it would be very useful at some stage to have a debate on that in your Lordships' House so that we can probe and examine these four areas in greater detail. I certainly endorse what the noble Baroness, Lady Smith of Basildon, said about encouraging and making provision for 16 and 17 year-olds to vote in any referendum, and I hope that the noble Baroness the Leader of the House will not give a knee-jerk response to that. We just need to think on the fact that, in the referendum in Scotland last year, engagement among 16 and 17 year-olds was higher than engagement among 18 to 24 year-olds. Most schools did some kind of civics, encouraging young people to find out how they went about actually voting, and that may hold young people in good stead for years to come in terms of playing a part in the civic and democratic process. Therefore, in a decision which will be so fundamental to their future lives, we should give them an opportunity to have their say.

If we look at the conclusions that emerged from the EU Council meeting, we find that after five pages there are two lines:

"The European Council was informed about the process ahead concerning the UK plans for an (in/out) referendum. The European Council will revert to the matter in December".

Given that the main item on migration was so important, it is perhaps not surprising that the matter is relegated to two lines, but I would be interested to know whether the Minister knows what the mood music was. How did people react to the Prime Minister when he informed the Council about the process? In particular, having had very serious discussions about migration and the EU relocation plan—and the Prime Minister no doubt made it very clear that the United Kingdom has nothing to do with it because we are not part of Schengen—how did the Council react to the Prime Minister's request about renegotiation? It would be interesting to learn something about the mood music around that.

I shall not go through each of the four issues that the Minister mentioned, but I want to ask specifically about the question of competitiveness. When I was in Brussels with colleagues last month, we heard much about what is being done on the digital single market, capital markets union and liberalising services, which are things on which the United Kingdom quite properly and effectively is taking the lead. The Minister says that more needs to be done, and we would like to know what more the Government have in mind. The Government are playing a crucial and positive role there. Do they not have sufficient confidence in their ability to continue that leadership? If they say that more needs to be done, it would be very useful to know quite what that means.

Baroness Stowell of Beeston: My Lords, a huge number of issues were raised by the noble Baroness, Lady Smith, and the noble and learned Lord, Lord Wallace. It is worth me saying again that this was an important Council meeting. The main focus was on migration, and rightly so. Although it is right and true that the United Kingdom is not part of the Schengen agreement and the UK is not party to many of the measures that were discussed during the Council meetings, it would be absolutely wrong to portray the United Kingdom's role in the discussions, or its contribution to addressing this important topic of the current situation of refugees in Europe and the situation in Syria, as anything other than a big part.

It is quite notable that in the course of the discussions at the Council, and as was reflected in the outcomes from those discussions, European members recognised that this issue requires a comprehensive response that tackles the root causes, not just their consequences within our borders. Indeed, the approach that the European Union is taking is very much in line with what we have been saying would be the right and most effective way for us to provide a long-lasting and sustainable way to support people who are in such a dreadful situation right now, which is caused by the terrible events in Syria and other places in that region.

The noble Baroness and the noble and learned Lord raised specific points on these issues. We believe we have a moral obligation to contribute on this matter. As the noble Baroness acknowledged, our contribution by way of aid to the refugee camps in the countries neighbouring Syria is the most significant of any country in Europe; indeed, it is second only to that of the US. That has been recognised by our fellow member states. We are proud of our aid commitment

of 0.7% and put pressure on other member states to follow suit. We support the action plan being drawn up with Turkey, and we recognise how much Turkey has done to support the refugees accepted into that country. We want to ensure that by providing additional funding via the European Union, which will be within the multiannual framework provision, those refugee camps are the most appropriate place for people to receive the kind of support they need in the dreadful situation in which they find themselves. That includes education for children and the potential for people to be employed in Turkey.

Questions were asked about accepting refugees in the United Kingdom. As noble Lords know, it is United Kingdom policy to offer refuge to those who are in the camps. We think that is the right approach for us to take. Working with the UNHCR, we have started the process of identifying people who will come to the United Kingdom. We expect that by Christmas we will have welcomed 1,000 refugees to the UK as part of our overall commitment to 20,000 refugees by the end of this Parliament. It is important that we prepare a warm welcome for those refugees who come to the United Kingdom and that we provide the kind of support they so desperately need when they arrive here.

The noble Baroness asked about the Navy's role in the Mediterranean. As I said in the Statement, we continue to play our part there. We are at the forefront in negotiating the extension of the effort to go beyond search and rescue and to be more effective in tackling those who are running these criminal gangs and routes that are causing so much distress.

On the issue of Syria, the noble Baroness asked about a Security Council resolution. It would be a good thing if we could achieve a UN resolution, but we should not allow that to get in the way of our decision to take action in Syria, because we know that Russia would potentially block such a resolution. Syria was very much discussed when the Prime Minister and other members of the Government attended the UN General Assembly meeting a few weeks ago.

Returning to Europe and the process of reform and renegotiation before we approach the referendum, which we are committed to providing for the people of this country, we are very much on track for our timetable. It was always the intention that the technical discussions would start in the summer, as they did, and that there would be an update, as there was, at this Council meeting. The Prime Minister said he will set out in more detail what changes he wishes to see made in the light of the discussions he has in those areas of reform. Further detail will be discussed and detailed negotiations will proceed from that point in bilaterals with the relevant member states and in plenary in December. What is most important is that we get the substance right and that we get the right outcome for the United Kingdom. That is what the Prime Minister is focused on delivering. Indeed, that is the record we have as a party in government. The Prime Minister has a good record of achieving change in Europe on behalf of, and in the interests of, the British people. I note what the noble Baroness said about the changes that we were able to secure in the context of justice and home affairs. I would argue that they were powerful changes that were very much in the interests of the United Kingdom and show just how much influence the United Kingdom has in delivering change that is right for the UK.

With regard to remaining an influential country in the negotiations and the noble and learned Lord's questions about mood music and so on, it should not be forgotten that a lot of what the Prime Minister is proposing by way of change in Europe is change that would benefit not just the United Kingdom but the whole of the EU. He has a great deal of support from the other member states for what he is seeking to achieve.

No doubt the issue of votes for 16 to 17 year-olds will be debated at great length when the Bill currently progressing through this House is in Committee, so I will not take up your Lordships' time on that right now. However, I am very confident that David Cameron as Prime Minister will secure a good outcome from his negotiations in Europe and that we will achieve success on behalf of the people of this country.

6.40 pm

Lord West of Spithead (Lab): My Lords, the sea state and the weather in the Mediterranean are deteriorating rapidly. We are unwittingly going to cause the deaths of increasing numbers of men, women and children. Does the noble Baroness agree that the only way to stop the flow of people from Libya is to blockade the coast? She is well aware that international law at sea allows us to do boardings without an EU requirement to do so, and that only by blockading the coast and really getting at people smugglers can we stop them being able to advertise our ships and EU ships as part of their ticket to Europe.

Baroness Stowell of Beeston: The noble Lord knows that, as I have mentioned, we have progressed from search and rescue to being able to target the smugglers who are operating these ships; we can actually go on board and tackle those on board. We are not yet at a point where we can move closer to the Libyan borders, but what will see us being able to make that kind of progress will be the unity Government in Libya that we so much want to see in place as soon as possible. Once there is stable governance in Libya, we can see the further action that the noble Lord and others would like see taken.

Lord Howell of Guildford (Con): My Lords, the Syrian situation is recognised as one of the sources, although not the only one, of the migrant and refugee problem. I thought that I heard the Statement say that we want a Syria "without ISIL and without Assad". Does the Minister agree that if that is so, those two objectives will probably have to be sought in different timeframes, and that in the mean time bargains and strategies that would not be acceptable in other circumstances may have to be sought with Russia, Iran, Turkey and even with President Assad if the global poison of ISIL, which is the source of it all, is to be tackled effectively?

Baroness Stowell of Beeston: As my noble friend knows—and he is far more experienced in the matter of foreign affairs than I am—ISIL is not just in Syria. It is operating in many countries and is a serious threat that we have to see defeated. Our point is that getting rid of ISIL alone is not enough; for the sustainability of what we want to see achieved, we also need to ensure that Assad will no longer be part of Syria. This is an area that continues to be discussed, and options for progress in this area continue to be explored. We want to see Russia applying its influence over Assad; we do not want to see Russia continuing to prop up Assad by attacking only those areas where there are Syrian people.

Lord Wigley (PC): My Lords, I express the hope that the Prime Minister comes back with a package that he can recommend wholeheartedly, get the support of every party, including his own, and get a resounding yes in the referendum when it comes. However, I draw the noble Baroness's attention to the points made in the Caernarfon refugee committee, on which I sit and which sat last night, in which extreme surprise was expressed that so few refugees are being allowed into the United Kingdom, and that the figure of 4,000 to 5,000 a year represents no more than three families or so per constituency. Surely we can do better than this; the people want to do better than this; and if we are to build good will among those with whom we are negotiating in Europe, should we not show that we are willing to share the burden that so many of them face?

Baroness Stowell of Beeston: The noble Lord makes a powerful point. I say in reply to him that we have already given refuge to 5,000 people from Syria over the past few years. We are committed to supporting more people who are based in those refugee camps, and we think that that is the right way for us to proceed. If we were to participate in the relocation scheme that the rest of Europe is following, it would not ultimately benefit people who need to be supported in places close to their home countries so that ultimately they can return. We must not forget that only about 4% of those who have had to flee are actually here in Europe; there are millions more in need of support who have not yet made it to Europe. It is important that we do a lot of things and that our effort is comprehensive, and that is what the Prime Minister is pursuing.

Lord King of Bridgwater (Con): The Statement covers three critical issues but I shall address the overriding and urgent one that is likely to arise. If an attack develops on Aleppo, as is reported in the press, we are going to see millions more refugees added to the enormous number that are already involved. Does this not reinforce the importance not only of the visit of Chancellor Merkel to Turkey but also of the Prime Minister's position that, whatever is done about accepting refugees into this country and other countries in Europe, the only way to save millions of people this coming winter will be the effectiveness of providing safe, secure camps and accommodation immediately in the area, saving them the need to travel and the enormous danger that will be involved? In that regard, I particularly welcome the announcement of the United Kingdom's contribution to the World Food Programme. I trust that resources we will be available to feed the millions concerned during this coming winter.

Baroness Stowell of Beeston: My noble friend makes some important points. As I have already said, we have applied our effort where we think we should help people—at the point of need—in a way that means that the countries they are fleeing to are able to sustain that support. We very much support what is happening in terms of a plan with Turkey. It is also worth adding that in November there will be the Valletta summit between European and African countries to look at what more can be done to prevent more people fleeing from that part of the world. We have to try to ensure that we support people where they are most in need of that support—that is, before they make these dreadful and treacherous crossings.

Lord Grocott (Lab): My Lords, on the renegotiation, there was one line in the Statement that was close to being amusing, which must be a first for a Statement on Europe from any leader. It said:

> "I will be writing to the President of the European Council in early November to set out the changes we want to see".

It is about two years since a referendum was promised and still, if we are to believe what we read, the heads of government of the other 27 member states are not at all clear about the terms that the Prime Minister is trying to achieve; certainly, the people in this country are not clear about them. I want to register my astonishment at that. He will answer in general terms, of course—indeed, there are general terms in the Statement itself—but negotiations are not about general terms: they are about quite specific matters, about which we still do not know.

I put it to the Leader of the House, in her role as Leader, that if the Prime Minister is saying that he is going to spell out these terms by November, and the mechanism by which he is going to do so is a letter to the President of the European Council, copied to member states and presumably to Members of both Houses of Parliament—for which we thank him very much—and of course for the British public to see, at the very least this House, and I can ask her only about this House, ought to see at long last the precise terms that are the bottom line for the Prime Minister's negotiations, so that we can examine this crucial aspect of the Government's European policy and question the Prime Minister precisely on the efficacy of the demands that he is making.

Baroness Stowell of Beeston: I consider it my aim every day to bring amusement to the noble Lord, so I am glad that I achieved that today.

The Prime Minister has been consistent throughout this process. In his Bloomberg speech he set out his vision for Europe. He has been clear about the need to make the case for reform in all the discussions he has had with his various European partners. As I have already explained, detailed technical talks have been going on about the legal implications for change in these four areas. He will set out the detail of the

changes that he wants to see in November and will then proceed with his negotiations and he will achieve his best for Britain. I have every faith that he will secure an outcome that will ensure we end up with a better relationship for the UK with the European Union. We will then put that to a referendum; I am pleased that the noble Lord is now supportive of the opportunity that we are providing to the people of this country.

Lord Callanan (Con): I thank the noble Baroness very much indeed for her Statement. I welcome the Government's renegotiation agenda and look forward to an ambitious agreement succeeding in due course. When the renegotiation is completed, do the Government intend to produce a full, detailed, White Paper setting out exactly what has been achieved and the consequences therefore in the referendum of a leave or a remain vote for everybody to see, discuss and debate?

Baroness Stowell of Beeston: Clearly, people will expect to see the results of the renegotiations and how the relationship with Europe has been changed and how these changes will address people's concerns. The best thing for me to do is to quote the Chancellor, who told the other place in June that,

"the Treasury will publish assessments of the merits of membership and the risks of a lack of reform in the European Union, including the damage that that could do to Britain's interests".—[*Official Report*, Commons, 16/6/15; col. 166.]

Baroness Smith of Newnham (LD): My Lords, I am very glad to hear that the Minister believes the Prime Minister will achieve the best for Britain. I wish I shared her confidence. Can she elaborate further on how the Prime Minister hopes to achieve reforms that benefit Europe as well as Britain? Could I add to the comments from the noble Lord, Lord Grocott, and request that when the Prime Minister writes to the President of the European Council that a Statement is made in this place and in the other place to give Members the opportunity to discuss what the Prime Minister is requesting before he goes to the European Council in December, rather than being presented with a fait accompli?

Baroness Stowell of Beeston: My right honourable friend the Prime Minister has a record on achieving change in Europe and that is why I have every confidence in him being successful. As I have already rattled through in repeating this Statement, he has succeeded in cutting the European Union budget—I would argue that that was to the benefit of everybody in Europe and not just the people of the United Kingdom. He has made other changes which have been first in terms of the way in which a Prime Minister has dealt with Europe. As far as the way in which he will see changes in the terms of his renegotiations, one of the areas in which he wants to ensure that he sees change is for Europe to support all of us who are members to create more jobs and growth. If that is not of benefit to the whole of Europe, then I do not know what is.

The Earl of Sandwich (CB): My Lords—

Lord Tomlinson (Lab): My Lords—

The Lord Bishop of Southwark: My Lords, we wish to thank the noble Baroness the Leader of the House for her Statement in which she repeated the Prime Minister's Statement in another place on the European Council. I gather that in response to a point made about the Bishops' recent letter, he said that he would like to see the Bishops make a very clear statement on the commitment to spend 0.7% of GNI on aid. I speak only as the duty Bishop but Bishops always try to make very clear statements whenever they speak. We thank and endorse and congratulate the Government on maintaining this policy of delivering 0.7%; it is something from which many of the poorest countries in the world benefit.

The Bishops' letter was also clear about two other points. While we wish to thank the Government for the initiative they are taking on refugees, we are asking for a much more generous response. I echo remarks that have been made in your Lordships' House that a commitment over the remaining years of this Parliament to a number nearer 50,000 refugees would be appropriate. Secondly there are many people in this country, including the churches, who are willing to work in close partnership with the Government in welcoming refugees.

Baroness Stowell of Beeston: I am grateful to the right reverend Prelate for his clarity and I certainly endorse his remark that the Bishops in your Lordships' House are always clear in their contributions. I also thank him for what he has said about Britain's commitment to the figure of 0.7% for international aid. On what we are doing in support of the refugee crisis, I know that he and his colleagues think that the UK should do more and accept more than we have said we will. However we have made a clear commitment and we are getting on with putting that in place. I am very grateful to him and his colleagues for the support they are giving us in making the necessary arrangements to receive people who need this support and give them the warmest of welcomes. We are grateful to the church for everything that it does and its support for some of the measures that we are able to introduce, such as establishing a register of homes and places offered by individuals who want to make a contribution.

The Earl of Sandwich: My Lords, is the noble Baroness not underestimating public opinion on the issue of refugees? We have heard about the Bishops' statement. There has also been a strong statement from lawyers and judges, some of whom are sitting on these Benches. I think the Prime Minister was brushing off this issue earlier on and the Government are diverting attention to Syria very skilfully. The fact is that we have a commitment within Europe and we should be looking at that much more firmly.

Baroness Stowell of Beeston: I do not agree with the noble Earl. What the British public look for from us, as the Government, is to provide a compassionate response that reflects their desire for their country to show some real compassion and care. However they want to see that happen in a well-ordered way and

[Baroness Stowell of Beeston]
ensure that it is not just compassion but something that delivers real support to people in a way that means they feel some positive benefit. I think that that is what we are doing. The Prime Minister talks of using our head and our heart and that is what we are doing as a Government.

Lord Tomlinson: My Lords, I thank the Minister for repeating the Statement in this House. Has she noticed that two pages out of the five and a half pages that she read out stated concerns about renegotiation? Can she confirm that much of the content of those two pages is aspirational and relates to issues that were not raised at the Council meeting? Can she confirm that what was raised at that meeting was that little summary bit under "Other items"—the two lines that the noble and learned Lord, Lord Wallace, read out? As we are writing to the President of the Council, will the noble Baroness spell out quite explicitly that we will all receive not only a copy of the letter that is sent to the President of the Council but of any annexe appended to that letter which enumerates the demands that we are making so that we receive from the Prime Minister exactly what the President of the Council does?

Baroness Stowell of Beeston: The Prime Minister made a Statement after the European Council, which I repeated. Our renegotiation is something of great interest and importance to the Members of the other place, so it would be proper for him to remind them of exactly what he is seeking. However, as he has made clear today and continues to make clear, we are now moving into the stage at which in very short order he will lay out in detail what changes he would like to see brought forward in light of the reform discussions he has had.

Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015

Motion to Approve

7.01 pm

Moved by ***Lord Bates***

That the draft regulations laid before the House on 7 September be approved.

Relevant document: 4th Report from the Joint Committee on Statutory Instruments

The Minister of State, Home Office (Lord Bates) (Con): My Lords, I beg to move that the draft Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015, which were laid before this House on 7 September, be approved.

The Modern Slavery Act 2015 includes a ground-breaking transparency in supply chains provision. Once commenced, this provision will require all commercial organisations that carry out business in the UK and are above a certain turnover threshold to disclose what steps they have taken to ensure that their own business and supply chains are slavery-free.

Many businesses are already taking action to prevent modern slavery but the legislation will encourage business to do more and create a virtual race to the top. Requiring commercial organisations to be transparent about the activity they are undertaking will give the public, consumers and investors the information they need to make informed decisions about whom they do business with and where they shop.

Recognising the importance of the provision in the Modern Slavery Act, we decided to consult on whom the provision should apply to. The Government have always wanted to create a level playing field between businesses with the resources and purchasing power to take action, while at the same time avoiding placing any undue burdens on smaller businesses. The regulations before this House today set the threshold determining which businesses need to comply.

Between February and May 2015, the Government held a formal consultation on the threshold level and the content of statutory guidance for businesses. The consultation generated over 180 responses from a range of businesses, business groups, trade bodies and NGOs. It asked respondents for their views on the level of turnover threshold and they overwhelmingly supported setting the threshold at £36 million. Many respondents noted that setting the threshold at that figure would align with the definition of a large company in the Companies Act 2006, providing clarity and consistency for businesses.

Having listened to businesses and their representative groups carefully, the Government have determined that the transparency provision should apply to all commercial organisations with a total turnover of £36 million or more per year. The Government believe that setting the turnover threshold at this level is ambitious and creates the broadest level playing field for those businesses affected.

These regulations also specify how the total turnover of a commercial organisation should be defined for the purposes of this provision. It is calculated as the turnover of that organisation and the turnover of any of its subsidiary undertakings. This means that in calculating their total turnover, parent companies will have to include the turnover of all their subsidiaries when considering whether this provision applies.

The Government are determined to ensure that this important provision works effectively on the ground in the long term. That is why these regulations also require the Secretary of State to publish at least once every five years a report that sets out the objectives of these regulations, and assesses the extent to which these objectives are being achieved and whether they remain appropriate. This will ensure that the provision remains relevant and effective for businesses tackling modern slavery risks in the future.

The UK is the first country in the world to introduce such transparency in supply chains legislation in relation to modern slavery. This ambitious legislation will help to ensure that UK consumers do not unwittingly drive demand for modern slavery anywhere in the world and that the UK is recognised as a world leader in this area.

For this ground-breaking legislation to work effectively, it is vital that it applies to the right businesses—those with the resources and purchasing power to effect real

change—and that it is kept under close review. These regulations will ensure that that is so, and I commend them to the House.

Lord Alton of Liverpool (CB): My Lords, in welcoming the Minister's speech to the House tonight, I will ask some questions and make a couple of observations about the regulations.

I will start by drawing the Minister's attention to Regulation 4(2)(c), which suggests that the objectives in the provision,

"could be achieved with a system that imposes less regulation".

I wonder whether the phrase "a system that requires more effective regulation" would have been better. Perhaps the Minister might spell out the difference between less regulation and effective regulation.

Secondly, can the Minister say why the regulations do not provide more specific guidance to the Secretary of State on the timescale for publishing the report? While the draft regulations stipulate,

"at intervals not exceeding five years",

more frequent reporting could uncover issues that need to be addressed to enable the provision to have its intended effect.

Thirdly, I understand that the independent review of the overseas domestic worker visa, which was committed to in Committee during the passage of the Modern Slavery Act, is now being carried out by James Ewins and was due to report to the Home Secretary in mid-July. The report has been delayed, and I understand that it is now expected in mid-November. It is important to have that in time for our debate in your Lordships' House on the Immigration Bill. Can the Minister give us some clarity on that?

The Modern Slavery Act 2015 enjoyed all-party support and is, as I think we all agree, a very good start in combating modern-day slavery and trafficking. The Government have placed a great deal of emphasis on the role of the Independent Anti-slavery Commissioner; perhaps the Minister will confirm that some £350,000 has been set aside to support his office this year. When spelling out the sums of money involved, perhaps the Minister could also say what resources are being made available by his department to non-governmental organisations that support vulnerable people who are trafficked—sometimes over several years if they are to be helped to avoid the siren voices of their traffickers.

The House will not be surprised to learn that I want to return to an issue which I raised at Third Reading on 4 March of this year—at col. 230—when introducing Amendments 3 and 6 to Clauses 54 and 57 during the passage of the Modern Slavery Act. Those amendments, on which I divided the House and which I had raised on Second Reading, in Committee and on Report, would have required the Secretary of State to make regulations to appoint an organisation or an individual to collate slavery and human trafficking statements and to maintain a website—a repository—on which to publish those statements, in a form searchable by members of the public without charge.

The proposal was supported not only by many noble Lords from all parts of your Lordships' House. It has been consistently asked for by civil society groups, which have so much experience of working with businesses on supply chains, including Amnesty International, Anti-Slavery International, CAFOD, the CORE coalition, the Dalit Freedom Network, the Evangelical Alliance, Focus on Labour Exploitation, the Law Society, Quakers in Britain, Traidcraft, Unseen,War on Want and the Equality and Human Rights Commission. I argued that without the incorporation of a central repository for slavery and human trafficking statements, it would be very difficult—if not nigh impossible—for civil society, investors, consumers and other agencies to hold big business to account.

Consider for a moment the substantial obstacles to accessing annual turnover information which indicates those companies that fall within the compliance threshold, let alone the vast number of different websites that would have to be trawled through, and it is patently obvious why a central repository must be established. One estimate was that if the threshold figure of more than £60 million had been used, more than 12,000 businesses would be obliged to produce a statement. The Minister has said to the House this evening that the threshold is now being set at £36 million. When he replies, I would be grateful if he said what he anticipates will be the number of businesses affected by that threshold; however, it will be a large number of businesses. The site would enable easy filing for business with secure verification of reports, so that spoof reports cannot be submitted. Businesses would not find themselves in the invidious position of not knowing whether they should be on that site. It must be a robust database with scalable secure storage, as over time there will be a growing number of reports to be stored, sorted and compared. This year-on-year comparison will enable clear evidence that the reports are iterative and that progress is being made year on year by businesses in combating modern slavery in their operations around the globe.

During the passage of the legislation, some noble Lords tried to cast doubt on whether the proposal for a central website enjoyed the full support of Kevin Hyland, the Independent Anti-Slavery Commissioner. He wrote to me, stating:

> "I can confirm I fully support the suggestion of a website as the central repository for reports as suggested by yourself and other noble Lords".

He said that without such a website and adequate resources,

"it will be unlikely to achieve the objective",

but the creation of such a,

"repository with the right resource would, I believe, make a very positive difference".

Experience from overseas supports his judgment. Groups involved in the implementation of the California Transparency in Supply Chains Act of 2010 urged the House to learn from their experience. The Californian organisation Not For Sale says that the American failure to create a central repository of information has made it,

"difficult to know which companies need to comply with the law, and which do not".

A coalition of major UK companies, trade unions and non-governmental organisations—including many familiar high street names—that would be required to

[Lord Alton of Liverpool]

comply with this measure supports this proposal. They say that they strongly support a published list of,

"all companies that are required to publish their statements on modern slavery in an accessible central website so that effective monitoring and accountability can be assured. We believe this would go a long way to levelling the playing field for ethical and responsible businesses, ensuring that they are not undercut by unscrupulous companies that operate under the radar of public scrutiny".

The Minister himself said on Report that he accepted the principle, stating that:

"we want to see these statements in one place so that people can monitor and evaluate them to ensure that the intended action takes place".—[*Official Report*, 25/2/15; col. 1750.]

Therefore, my question to him is: why are we not moving towards that by regulation? Is the Home Office doing it without regulation? How much progress has been made since the House divided on this issue? At the time, the Minister said,

"we are more or less on the same page. The question is: do we at this stage want to have this written on the page, or do we want to leave it to something that we will come to a little later?"

Well, we are still here, at a later stage, and I would be grateful if the Minister told us how much longer we have to wait. At the time, in urging patience, he said that we should await the outcome of the consultation with the Ethical Trading Initiative. He said that the consultation was,

"a concession; it was something which we said we would do in response to concerns raised in your Lordships' House. We launched the consultation and it is open until 7 May".

He added:

"We are using this opportunity to talk directly to technology companies and to some of the businesses that will be producing these statements to determine the best options. I am pleased to say that discussions have already highlighted a number of interesting ideas which we want to pursue with the businesses as quickly as we can".—[*Official Report*, 4/3/15; col. 237-38.]

I welcomed that at the time and I welcome the sentiment again this evening. But I told the House then, and I repeat, that although the Minister told us that we should wait for the consultation, I cannot think of an organisation—and I cited many—that we would consult about this proposal that has not already come out in favour of a central repository, which should be available to prevent people having to trawl across the internet to find individual companies.

7.15 pm

In conclusion, developing a central repository and website for annual statements on slavery and human trafficking as part of the transparency measures in the Modern Slavery Act will enable easy access to all reports in one place, rather than needing to search perhaps 12,000 websites. It is vital that this be a neutral site, but it must be run by an anti-trafficking charity, as opposed to a commercial organisation, in order to give credibility. The site would not be passing judgment on the quality of reports but would be a publicly and fully searchable database of reports, enabling comparisons between companies or sectors, and over time could analyse what is being reported—that is, actions in a particular country or across a sector of business, and potentially, in due course, by product. It would also be able to highlight companies that are not in compliance with the legislation.

Creating a repository will more effectively fulfil the Home Secretary's stated desire that civil society and consumers drive the impact of transparency in supply chain reporting, as there will be one central place to read the reports. I look forward to hearing from the Minister about the outcome of the consultation and when such a repository will be established. Tonight is a rare opportunity to press the Minister further on these points. I think he was expecting this issue to be raised, so we look forward to hearing from him.

The Earl of Sandwich (CB): My Lords, I supported my noble friend's original amendment on the question of monitoring, and I will return to that in a moment. Whether we should go as far as the website and central information, I still am not certain in my own mind.

Having looked through the original consultation and the Government's response, I am very impressed by the detailed work that has been done on this issue. It is rather a contrast with the Energy Bill, where the Government were castigated for bringing everything in at the last minute. I think that the whole process of pre-legislative scrutiny and consultation on the Modern Slavery Bill has been a model. I believe that the Government are genuinely behind this legislation, especially the Minister, who has shown commitment over many years, including his Nike research in China, his links with Gateshead and Traidcraft and his promise to consult widely following the Bill. This is where my noble friend's amendment is very relevant. We are delighted that he has come up with the regulation, and I warmly welcome the decision to go for the lower threshold. This was the clear view of the respondents and I am glad to see also that companies will be given some flexibility on the form of the statement. So we are proceeding gradually in the right direction.

This does not mean that I have no misgivings. The first one is about monitoring. I notice that under section J of the impact assessment, the Government undertake to engage with businesses for a further 12 months after commencement. However, it seems that this will be only a limited assessment about reporting requirements and whether organisations have any difficulty in providing information. What about the monitoring of performance by the companies themselves after 12 months? Who is going to assess whether the companies have adequately researched their own supply chains to the point where they can revise earlier statements? I suspect that much of the monitoring will fall to civil society.

I remember the discussion under Section 54 on 10 December, when the noble Lord, Lord Rosser, questioned the Minister very closely on the amount of information that would be required from a company to enable civil society, for example, to make a judgment. This is an important point because it might be easy for a company to make very brief statements with so little content that the Government and NGOs would hardly be able to question them.

Presumably the Government will be involved after the 12-month period. Will they create a forum involving the NGOs, or will the anti-slavery commissioner, Mr Hyland, be involved in the process? I see that he has just published his impressive strategic plan: his

workload is formidable. I know that he works with the NGOs a lot but surely he will have to stick primarily to policing and law enforcement and will not have the extra time that is required.

If the aim of the regulations and the Act is to,

"ensure there is no modern slavery in … supply chains",

and to,

"aid the detection and elimination of modern slavery",

surely a lot more needs to be done in the direction that my noble friend has mentioned than publishing what could be very limited information.

Finally, I ask the Minister whether charities are covered by the regulations. Section 54 of the Act refers to a "commercial organisation", but the Explanatory Memorandum to the regulations says at paragraph 10.1:

"The impact on ... charities or voluntary bodies is small".

Perhaps he could clarify this point, because there are charities with substantial overseas trading interests.

Baroness Hamwee (LD): My Lords, this is indeed a significant statutory instrument. Whether it will fulfil its potential depends on its implementation and the practice that is adopted by organisations, as well as the response by the public. Like other speakers, I think that the content of the statements is more important than the process, and inevitably the statutory instrument is focused on the process.

Actions beyond the legislation—the statute and the statutory instrument—will be important. Like other noble Lords, the first point that I wrote down related to monitoring and whether there would be a central repository and a website to cover what may be, according to the impact assessment, 17,000 or 11,000 companies—a number of figures are given. It seems to me that the demand for that was reflected in the responses to the consultation, as reported on the Home Office website. This is not just for citizens, NGOs, civil society or indeed government to check and to hold companies to account; surely the repository, or depository, also has a function in spreading good practice and disseminating information about methodologies. The responses to the consultation seemed to show a need on the part of companies for assistance in how to identify slavery. The section on supply chains in the commissioner's strategy, to which the noble Earl has just referred, under the heading "How will we know that the response is improving?", says:

"Best-practice models of business and supply chain transparency to be established and widely adopted".

Clearly there is a lot of work to be done in this area, so the guidance on how to do it is important. We are told that this is to be,

"published to coincide with the duty coming into force",

which, I understand, will be in October. Can the Minister help the House as to whether the guidance will be published before then? Surely if a duty is in effect, one needs to know beforehand how to comply with that duty in the way that, I hope, the guidance will cover.

I note, too, that transitional provisions are to be developed, and I wonder whether the Minister can explain what that means. The first point that occurred to me on this was that the duty comes into effect in October, but how does that relate to any given company's financial year? Presumably that will be a basis for making a statement and an assessment. The Government must have thought through whether, for instance, the duty will apply to a report only after there has been a full financial year of experience. I may be barking up the wrong tree here but if the Minister can help the House on what is anticipated in the transitional arrangements, it would be useful.

The responses asked whether the provisions could apply to companies below the threshold. I assume that there is no reason why not. In our debates on the Bill, we talked about the reputational benefits of providing statements.

More widely—I do not know whether the Minister can answer this—what sense does the Home Office have of a buy-in of enthusiasm for this process, for instance among institutional investors? During the progress of the Bill, we talked about the position that shareholders have and the influence that they may have on companies, so the institutions, as the biggest shareholders generally, will be in an important position. I used a search engine to see what was being said about this subject and found that a number of City lawyers and accountants are including advice on the subject in their newsletters, but it will be the shareholders—and the concern not to upset shareholders—that will be central to the operation of this measure.

The noble Lord, Lord Alton, referred to the effectiveness of these arrangements. In that connection, I noted that the impact assessment seems to deal with the regulatory burden, not with the costs of the investigation leading to the content of the statement. Checking that there is no slavery in the chain is the objective, despite the get-out of the "no statement", so it seemed to me that there was a danger that the impact assessment might be sending an inappropriate message.

I was interested, too, that quite a lot of respondents disagreed with providing key performance indicators—not a majority by any means, but the indicators are referred to in the legislation and they are important because they will show trends. We are talking here about not just snapshots but trends. I do not know whether the Minister can say anything about that.

Almost finally, we have heard about the requirements on the Home Secretary to report. Is there an intention to report more frequently than the statutory minimum? And finally—this matter was raised by the noble and learned Baroness, Lady Butler-Sloss, during the passage of the Bill—can the Minister tell us what the Government are doing to check on their own procurement?

Lord Kennedy of Southwark (Lab): My Lords, first, I generally welcome these regulations but have a few concerns. I am delighted that they have appeared before your Lordships' House as close as we could get to Anti-Slavery Day, which was yesterday. Slavery and human trafficking are appalling crimes. Estimates have suggested that anything up to 13,000 people who are victims of modern slavery could be living here in the UK, and the Walk Free Foundation has estimated that there are 35.8 million people in modern slavery throughout the world. Those are appalling figures.

[Lord Kennedy of Southwark]

During the passage of the then Modern Slavery Bill through your Lordships' House, many examples were given of multinational businesses using very long and complicated supply chains across the world, which, due to their nature, can sometimes allow slavery to thrive. The regulations before us require companies with a turnover of £36 million or more to produce a statement that sets out the steps that the organisation has taken during the year to ensure that slavery and human trafficking are not taking place in any of its supply chains or in any of its own businesses, or a statement that the organisation has taken no steps at all. The statements must be published on the organisation's website with a link in a prominent place on the home page of the website.

I am pleased that following the consultation the Government opted to include within this legislation companies with a minimum annual turnover of £36 million and that they did not go for a maximum threshold as a possible option. It was also clear from the consultation exercise that this figure was supported by most—more than 70%—of the people consulted. Like the noble Lord, Lord Alton, I noted that the Home Secretary has to produce a report. Regulation 4(2)(c) refers to "the extent to which" the objectives,

"could be achieved with a system that imposes less regulation".

I would have preferred something that referred to more effective regulation rather than the word "less". This is such an important issue that "less" lays the wrong emphasis on the regulation.

The Home Secretary is required to publish a report within five years of the regulations becoming law and thereafter every five years. Five years seems a terribly long time. We should have more frequent reporting—say every two or three years—which would enable us to more quickly identify issues that need to be addressed. This would ensure that the regulations are having their intended effect rather than to having to wait for just one chance in every Parliament.

7.30 pm

The point made by the noble Lord, Lord Bates, about allowing consumers to make informed choices is very important. During the passage of the Bill through your Lordships' House, the question of whether a website should be maintained where details of company statements could be kept in one place was discussed. Again, the noble Lord, Lord Alton, raised this point. However, the Government were not persuaded as to the merits of the proposal, which is most disappointing. Perhaps the noble Lord, Lord Bates, could tell us whether he intends to keep that proposal under review. Could he also tell the House what his view would be if the Independent Anti-slavery Commissioner decided to set up such a website—if, of course, he had the necessary funds to do so? There is concern that it is going to be very difficult, if not impossible, to keep track of all these company statements when there is not a simple reference point or repository to go to.

Could the noble Lord also tell the House whether in any published guidance there will be some explanation of what the company statement should look like and what it should cover, or will it be up to each individual company to put down whatever if feels like?

Page 19 of the impact assessment refers to engaging with business through,

"informal consultations and ongoing engagement".

Can the noble Lord tell the House a little more about this?

Finally, I notice that post-legislative scrutiny will take place between three to five years after the Bill became an Act. Does the noble Lord, Lord Bates, think that we need the first report to the Home Secretary before we get into that position?

On these Benches we generally welcome these regulations, as we welcome the Act—we have been in the same place on many points—but this is such an important issue that it needs to be reviewed carefully to avoid unintended consequences. I hope the noble Lord will come back to us and tell us what the Government are going to do in the future.

Lord Bates: I thank all noble Lords who have spoken in this debate and welcome the noble Lord, Lord Kennedy, to his new role and responsibilities. He has shown a great interest in the area of modern slavery for some time and we look forward to continuing that discussion. He is right to say that this has been—certainly in my time in both Houses—model legislation in the way that it had pre-legislative scrutiny before the Bill was published. It is interesting that the original Bill was published without a clause on the supply chain. That came later between two stages. There have been a number of commitments to review and consultations which have led to that role. When we consulted on the range it varied from £100 million to £60 million, and the noble Lord is right to state what we have come forward with. During those debates there was a little suspicion in some quarters of the House as to whether it would be under £100 million but it has come down on the side of £36 million, which is the right level.

This is new legislation—a new initiative that we are undertaking—so all aspects of it have to be constantly under review to see how it is being introduced and how it is working. I will come to specific questions but I particularly wish to make reference to the question raised by the noble Lord, Lord Kennedy. The noble Baroness, Lady Hamwee, referred to the Independent Anti-slavery Commissioner and his priorities. He produced his strategic plan for 2015-17 last week and it sets out clearly what he aims to do. His first priority of course—it is important to put this on record in the context of a debate on the supply chain, although we all want to do more in every area—is the identification and care of victims. We all felt that that should be his priority. The supply chain is important. It comes in at number 4 in the section on what he intends to do to promote awareness of these new obligations on businesses. There is also an element which runs on from that about international co-operation. It is a crucial element. We are leading the way in the international community and we want this to help us build relationships with other organisations and to encourage them to have similar regulations in place.

I turn now to the specific points, but not in the order in which they were made. The noble Baroness, Lady Hamwee, asked about the transitional provisions

and whether the company will need to report only up until the end of the full financial year. When we commence this transparency and supply chain provision, we will include a transition provision so that the first organisations required to comply will be those whose financial year ends on or after 31 March 2016. This will ensure that all organisations have sufficient time to consider the new provision and the statutory guidance before publishing their first statement. A follow-on from that was to say how long after that period they will have to file that report; the noble Baroness, Lady Hamwee, referred to this. We anticipate that a period of six months should be sufficient.

The noble Earl, Lord Sandwich, asked whether this provision applied to charities, universities and other organisations. The organisation will be caught if it engages in commercial activities irrespective of the purpose and whether profits are made. Ultimately it will be for the individual organisations to take legal advice, consider whether they meet the requirements of the Act and determine whether they need to comply. I have touched upon the transitional arrangements.

As to whether guidance will be published before October to coincide with the duty coming into force, our intention is to publish guidance at the same time as we bring this provision into force, which we expect to be next week, subject to approval of these regulations.

The noble Baroness, Lady Hamwee, asked what buy-in has been detected in the Home Office from institutional investors. A wide range of businesses and investors called for this legislation to be introduced. This included a prominent campaign led by a range of major investment firms, which wrote letters on a number of occasions calling for transparency in supply chain legislation. These include Rathbones Investments, BNP Paribas Investors, Pardes and Aviva Investors. We are therefore confident that investors welcome this provision and will provide more information. In fact, during the debate the most effective voices to be heard by organisations will be from their own shareholders. It is for institutional investors—whether they be trade unions or other investors—to make sure their voice is heard at annual general meetings. We know from experience in some areas—for example, female representation among non-executive directors on boards—that that very powerful voice has been heard. We hope that institutional investors will ensure that the voice is heard and that companies will give an adequate response.

The noble Baroness, Lady Hamwee, asked whether the Home Secretary intends to report more frequently than the statutory minimum infills. The regulations set out,

"before the end of a period of five years".

Of course, "before the end" can be open-ended but it is certainly worth putting in a limit. While the requirement is to report only once every five years, if the Home Office receives clear evidence that the regulations are not achieving their objectives at an earlier point, we will of course consider conducting a formal review at an earlier stage.

I think that the message needs to go out to business that we are commencing this in a way which, while I do not want to use the term "light touch", tries to work with businesses to get their supply chains in order. But the clear message is that we expect action to be taken, and if it is not taken it is of course open to this or future Governments to come forward with further measures for consideration.

I was asked what HMG were doing about their own procurement. The transparency provision was specifically designed with the private sector in mind. The Government are of course subject to parliamentary scrutiny and freedom of information requests in terms of their duties, but this is a key element. We have a cross-government procurement policy so that modern slavery considerations become a key part of procurement processes. I believe that imminently, if not already, a question relating to the compliance of supply chains with the Act and the regulations is being inserted into that policy.

The noble Earl asked about the role of the Independent Anti-slavery Commissioner. His remit includes promoting good practice in the prevention, detection, investigation and prosecution of modern slavery offences, which includes encouraging good practice among businesses to prevent slavery from occurring in their supply chains. The whole point is that the anti-slavery commissioner is independent, which is another change that was made in the process of the legislation. We cannot instruct him on what to do, but the Home Secretary will ensure that she listens carefully to his recommendations and requests.

The noble Lord, Lord Alton, raised a number of points, one of which was echoed by the noble Lord, Lord Kennedy: why is there a reference in Regulation 4(2)(c) to "less regulation" rather than more effective regulation? The reference to "less regulation" reflects the standard-view terminology applicable to all business regulations. It reflects the fact that these regulations are from a Government who have as one of their aims a deregulatory culture. We have committees and processes that scrutinise what we do to ensure that what we put forward is consistent with the wider government approach. In any event, the review of these regulations will seek to ensure that they remain effective.

The noble Lord also asked when James Ewins's report would be published. He has asked for more time to complete his work, but we expect Mr Ewins to publish his report on migrant domestic workers around mid-November, and we have made a commitment that we would seek to come forward with actions in that area by the end of the year. If that is not correct—

Lord Alton of Liverpool: I am grateful to the Minister for giving way. He will know that organisations like Kalayaan gave evidence to Members of your Lordships' House when we were debating these issues, and he will recall that my noble friend Lord Hylton and I divided the House on this question. I hope that we will have the opportunity to have, first, briefing sessions with the Minister when the report is available so that proper discussion can continue to take place. Secondly, I hope that at some point there will be a chance either in the House or in Committee to have a debate before any final decisions are taken. I wonder if the noble Lord is able to give some assurances on the process of how the issue of domestic migrant labour will be taken forward.

Lord Bates: I thank the noble Lord for his questions. We have not made a commitment on that, but I can certainly give a commitment that I will reflect on what he has said about how we should handle the report once it is received and I will come back to him.

The key element in a number of contributions was about the central repository for these forms. The Government are not launching an online repository. However, we are aware of a number of proposals from third parties who have suggested that they could develop a website to host these statements and help people search for businesses and compare them. In California the non-governmental organisation Know The Chain has set up a website that allows the public to see which companies have complied with the legislation. The UK could adopt a similar approach to support a transparency provision. In essence, we believe that this is something that it would be valuable to have, but it is for civil society, not for government, to actually maintain the repository.

We were asked how many businesses it was likely that this would apply to. Of course, applying the threshold at the lower level captures more businesses, and according to the Mint Global database as set out in the impact assessment, 17,257 businesses will be involved.

7.45 pm

The Earl of Sandwich: Can the noble Lord clarify whether the commissioner has any role in this? It is quite an undertaking to leave it entirely to the voluntary sector.

Lord Bates: In the strategy which he published, the commissioner did not say that he felt that it was for him to do this. He did not express that as a view and he set out other priorities. Of course, whatever the sums are that he has to work with, we know that many demands will be made on those resources, and he wishes to target them in a particular way. I am aware that discussions are going on with third-party organisations which might be willing to step forward in this area, but we feel that it is not something for the Government themselves.

Lord Alton of Liverpool: Again, I am grateful to the noble Lord. Could he clarify what he means by civil society and third-party organisations? In my earlier remarks I was careful to distinguish between commercial organisations and, say, universities, charities and NGOs. I would be perfectly happy about any of those, but I would have some reservations about commercial organisations, which could have some direct vested interest and might not inspire the same confidence as what we might loosely call third sector groups would. Can the noble Lord explain what he means by the civil society groups which are in discussion with the Home Office at the present time?

Lord Bates: They might be better described as non-governmental groups. It could be that private sector groups or even charitable organisations are interested in putting this together. All I am saying is that there is possibly an interest out there, but the key element for the purpose of these regulations is twofold. First, we recognise that it would be of interest, but we should remember that the whole purpose of insisting that this was not in a published, hard-copy annual report and accounts but was a statement on a website is that such a statement is searchable. A number of people, organisations and NGOs took part in the consultation and have shown a real, forensic interest in how people are doing, and they will be able to search those. That sort of social media activism, which we see so much of in many areas, could be brought to bear in order to shine a light in this particular area. That might be more effective than simply, as it were, designating one particular organisation to take responsibility for it.

Lord Kennedy of Southwark: The noble Lord is absolutely right. We will have the company statements on the company website, but the only issue with the central repository, of course, is that if you have 7,000 to 10,000 companies, it will be difficult if they are not all in one place. I think that there has been some movement from the Minister tonight, but can he explain why he thinks that this should not be done by government? Why should it be left to civil society or a third-party organisation? It is an important point and it seems to be the missing part in all this.

Baroness Hamwee: My Lords, I wonder if I could add to that, because it is part of the same question. I am sure that the Minister does not mean it in this way, but the more it is said that this is not a matter for government, the more one worries about how the Home Secretary is going to fulfil her duties in keeping the matter under review if she does not have that facility available to her. The information is very much a matter for government and therefore the Government must have an interest in ensuring that it is easily accessible.

Lord Berkeley of Knighton (CB): In order to save the Minister from popping up and down like a jack-in-the-box, perhaps I may add one point which may help my noble friend Lord Alton. If by civil society one were able to define that by ruling out commercial interests, that would go a long way towards meeting the point being made.

Lord Bates: I am grateful for all those points. Let us remember that as this Act went through we debated whether it should be a statutory responsibility to do this or whether it should be something on which the Government should take the lead. The Act has come through in its present form. I hear the voices saying that all these points are needed. If an organisation does not file its statement on its website for the financial year, on or after 31 March, there are remedies set out in the Act as to what can happen as a result of that. Therefore, this is a very serious statement, but it is an added tool for people to use.

For example, many times we have seen stories in the press about practices in the supply chains of organisations. Now, to go along with those investigations in the press, there would be an ability for them to say, "Well,

of course, this is what the said company said on its own website about its supply chain". People can then draw an additional conclusion from that statement.

We are moving further down this route. These are early days and we will need to see how it comes about. Guidance will be published, on which we have consulted extensively. It will provide further information about what should be done and how it should be presented. However, we are where we said we would be when we passed the Act and we should allow these regulations to come into force so that it can be seen to work and can be evaluated after a period of examination. I beg to move.

Motion agreed.

Energy Bill [HL]

Report (1st Day) (Continued)

7.52 pm

Clause 5: Directions: national security and public interest

Amendment 19

Moved by ***Baroness Worthington***

19: Clause 5, page 3, line 41, at end insert—

"( ) Directions given under subsection (1) may require the OGA to postpone or prohibit decommissioning of oil or gas infrastructure until such time as the Secretary of State determines that a carbon capture and storage operator is in position to utilise the infrastructure."

Baroness Worthington (Lab): My Lords, the next group of amendments have been tabled under the heading of decommissioning and the risks associated with the,

"decommissioning of oil or gas infrastructure",

and safeguards. In speaking to Amendment 19, I shall speak also to Amendment 77. As we have said previously, we are grateful to the Minister for listening to some of the concerns raised during the passage of this Bill. Under the previous group, we talked about carbon capture and storage and use. The other aspect of this Bill which we felt needed more attention was decommissioning. This afternoon, the noble Lord, Lord Howell, who is not in his place, kicked off by reminding us that the world is changing very fast. The very low prices, which look likely to be sustained, have had a big impact on the North Sea and the pipeline of investment into and operations within it. We are seeing a somewhat contracted timetable for decommissioning as a result of that change in the global oil price.

It is fair to say that the resource discovered in the North Sea in the 1970s has been an absolute mainstay of our economy and our public finance. It has paid a huge sum—some £300 billion, I think—in tax income since then. Obviously, it has helped to generate many jobs, to bring about world-class engineering and has been a considerable boon to the UK. However, all good things seem to come to an end and, particularly when it comes to fossil fuel reserves, that end can come rather more swiftly than one might expect. That is partly because of oil and gas prices and the commodity market, but also because we are now entering a world in which we know that we can no longer burn and combust oil and gas without paying heed to the fact that that is contributing to global warming.

Obviously, the recent oil price reductions have not yet been directly related to policy interventions on climate change, but they may be a foretaste of things to come as more nations move to a low carbon economy. I am thinking specifically of the US, China and Europe—the three big economic blocs where it is clear that the commitment to tackling climate change is real and the desire to move to cleaner energy systems is starting to be witnessed.

We are now seeing decommissioning occurring. In tabling these amendments, our concern is that this is happening on a more condensed timetable than we might have expected or perhaps wished. On the one hand, we have a desire to develop a new industry in the form of carbon capture, storage and utilisation, which obviously requires the fitting of equipment to capture the gases that are transported and potentially stored in areas of the North Sea, or onshore in saline aquafers and other locations.

The move to deploy these projects has been very slow. It was way back in 2005, under a Labour Government, when we first said that we were going to pay for such projects. There have been several iterations of that policy since and here we are, 10 years later, still awaiting the first sods to be turned and projects to go ahead. We know that we now have a funding mechanism—at least, we hope we do—in the form of the contract for difference. We expect those projects to be successful and to see at least two, or possibly three, demonstration projects in the UK, which will then result in relatively large volumes of CO_2 needing to be stored. But that is all taking rather a long time.

In the mean time, we see the major players in the North Sea wishing to withdraw. Therefore, the decommissioning of their infrastructure may happen sooner than we are able to reuse it through CCS, which poses quite a significant challenge. Our purpose in tabling these amendments is to explore the extent to which the OGA will have and should have powers to manage decommissioning, so that, if a large oil and gas operator wants to move out of the North Sea, it cannot simply begin the decommissioning process without giving due notice to government and considering the reuse of that infrastructure.

For avoidance of doubt, I am sure the Minister will explain that government Amendments 73, 74, 84 and 85 are relevant to this discussion and seek to address the misalignment between potential decommissioning and the need for that infrastructure, which is welcome. Our amendments are perhaps a little more explicit. Certainly, Amendment 19 would give the Secretary of State a specific power to direct,

"the OGA to postpone or prohibit decommissioning".

8 pm

Of course, the next obvious question is: should costs be incurred, who should pay? We would need to explore where the balance of that payment should

[Baroness Worthington]
rest, but in that context it is worth remembering that, although the oil and gas sector has paid handsomely into the public account over the decades, it is now in the very secure position of having tax rebates to help to pay for its decommissioning. Provisions created under the Finance Act have now been converted into private contracts between oil and gas operators and the Government, which essentially compensate for any changes in the tax regime. In essence, they have their own form of a contract for difference to pay for decommissioning. It does not allow the Government to change the tax breaks without providing compensation. It is an interesting model that I am not sure has had enough scrutiny.

Obviously, there are financial flows between the state and the sector. It is not as simple as it once was, when tax revenues simply flowed in, we thanked the industry and, by and large, left it to its own devices—not without some regulation, but it is not as highly regulated as energy is on land. We now see the subtle shift in the contract between the sector and government. Indeed, the creation of the OGA is another example of that subtle shift, where arm's-length regulation is perhaps no longer fit for purpose. There is a need for independent intervention and government intervention to help manage what is happening in the North Sea. Again, if the Government are making loans or provisions—or, indeed, providing the staff of the OGA with pensions under Civil Service terms—that changes the nature of what is occurring in the North Sea, making the relationship between the Government and the private sector different and more fluid.

Clearly, there are ways that money could be found to enable this to happen. It is important that we debate this and get a clear sense from the Government of where we are going. Can the OGA postpone the removal of essential infrastructure if it is deemed necessary for reuse for other energy purposes? I know that the noble and learned Lord, Lord Wallace, the noble Lord, Lord Teverson, and the noble Baroness, Lady Maddock, will speak to a similar amendment. I know that they feel similarly that this is getting to the nub of what we can do with the OGA.

Amendment 77 relates to my worry that we are entering a phase where we have inadvertently—or perhaps knowingly—taken an unlimited liability on the public purse through the deeds of contract that have been agreed between the sector and the Government, which compensate for any changes in Finance Act tax arrangements. We need from the Government a clear sense of how much of a liability we have created. I have seen estimates that the loss of revenue from decommissioning costs that will fall to the Exchequer—to the public purse—will be in the region of £5 billion between now and the end of the decade. Those will rise swiftly thereafter, potentially reaching £20 billion or higher in the next decade. These are not insignificant sums when we live in a time of austerity.

As I said, we now have these contracts, which have been signed and essentially bind the hands of future Governments—they are not time-limited. Rather a large amount of tax will be paid back to the sector. Of course, the taxes were paid by the sector in the first instance, but you cannot have it both ways. You cannot say, "We are the great providers and we have been paying in tax; aren't we wonderful? Oh, by the way, we'd like it all back now because we have to pay for decommissioning". That simply will not wash. It is not as if, during those decades of providing tax revenues, they were not also providing massive profits—huge profits—to their shareholders and all their investors.

It is fine to say that the industry is on its knees and running out of money. Times might be hard now, but times have been very good. It is prudent to plan for your future, knowing that you will be able to pay for your decommissioning and not be caught out. If you have prudent management, you should never find yourself unable to pay for the things you have caused to be created in the first place.

The reason for Amendment 77 is that we simply want to make the House, lawmakers and policymakers aware that this is the current arrangement: that there are these deeds of contract, that they are creating a liability and that we ought to be well informed of what the cost will be. This is obviously not the precise wording—it is very much a probing amendment—but I would like to hear from the Minister the Government's thinking on these decommissioning costs and the liability they create.

To return to Amendments 19 and 21, which I am sure noble Lords from the Lib Dem Benches will speak to, what can we do to ensure that we are not simply rushing to decommission, and that we have a planned strategy? What can the OGA do and not do? Ultimately, I suspect that the hardest question will be: who pays? I look forward to hearing from the Minister and from other contributors to the debate.

Lord Teverson (LD): My Lords, I thank the Minister for the meetings that we have had. I found one of them particularly useful because we had a wide range of representatives, from both the department and the OGA. One of the issues that came up, which perhaps I should have understood more but did not, was that oil and gas infrastructure, particularly in the North Sea, was of particular importance, as well as the importance of managing that infrastructure in terms of decommissioning and making sure of other uses, such as CCS. What came out was that a lot of this infrastructure could well be critical to the nation, not just in the context of carbon capture and storage, but even in how the oil and gas market might move.

The question then came down to: if there was critical infrastructure and this decommissioning took place, what happened if the commercial sector—the industry—decided that there was no way that it wanted to keep particular assets operational and they should therefore be decommissioned, but the Secretary of State, the Government and the nation had a different view? Who carries the financial can for that in the future? If industry was not there, who else would step in?

I ask the Minister to forgive me for this: in a way our amendment is a probing amendment, which of course we should not really do on Report, but it is an important point to understand. My question is a fundamental one: if we have critical infrastructure in this industry—in the North Sea, say—and it is to be

decommissioned, yet the OGA sees it as critical for future development, whether with greenhouse gases or the future of oil and gas itself, what happens when the private sector will no longer pay for that asset to remain operational, or at least be mothballed? Our amendment asks that question, but it also lays down that the OGA should have a specific responsibility to bring it to the attention of the Secretary of State, should such a situation arise. To solve that, the Secretary of State should be able to pay out of public funds for that critical infrastructure to remain.

I am not completely naive in this area. Clearly, if the private sector sees that the taxpayer is likely to underwrite an asset into the long-term future, perhaps not surprisingly people in that sector might be rather quicker to decommission, move out of these assets and move that cost across to the taxpayer. There is clearly that risk. However, we on these Benches seek through this amendment to obtain clarity on how we defend and preserve the national interest in terms of these assets while at the same time making sure that any taxpayer commitment will be protected—namely, that we keep these strategic assets when the OGA and the Secretary of State believe that they are critical for the nation's future.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank the noble Baroness, Lady Worthington, and the noble Lord, Lord Teverson, for these amendments. I wish to speak to the non-government amendments before addressing the government amendments. Following discussions held during the dinner break, I am happy to revisit Amendment 72, which we looked at before the dinner break.

Amendment 19 seeks to amend Clause 5 to give the Secretary of State the power to direct the Oil and Gas Authority to postpone or prohibit decommissioning of infrastructure until such time as she determines that a carbon capture and storage operator is in a position to utilise the infrastructure. I must first clarify that it is not the intention that the Bill will give the OGA the power to prohibit or postpone decommissioning. The ultimate power to approve, or disapprove as necessary, a decommissioning plan lies with the Secretary of State under Part 4 of the Petroleum Act 1998, and will continue to do so.

In any event, taking a power to delay or prohibit decommissioning on an open-ended basis for the purpose suggested would appear to require an owner of relevant infrastructure to pay for the ongoing maintenance of the infrastructure on an indefinite basis until the CCS development is ready. These would be significant costs, running to tens of millions of pounds for ongoing maintenance every year, simply to keep the relevant infrastructure safe until such time as it might be reused for CCS. When, as we all hope will quickly become the case, CCS is a proven technology, we can be certain of how and when relevant infrastructure can be reused for CCS and a commercial deal is viable, preventing decommissioning of existing assets to make way for CCS may be sensible and permissible under the current proposals the Government have made. However, as we debate the merits of this amendment today, we cannot say with any certainty when or how such infrastructure could be reused for CCS. I fear that this amendment risks making the United Kingdom continental shelf less attractive to investors and jeopardising the vital investment we need for the future of the basin. This would put us in significant conflict with the recommendations set out in the Wood review, and would be perilous given the challenging economic realities in the United Kingdom continental shelf today.

I hope that this explanation is helpful in setting out why this amendment is not workable from a structural perspective, since it will be the Secretary of State, not the OGA, who will hold the key power to decide whether to approve or reject an abandonment programme. In addition, as I will outline shortly, the government amendments brought forward on Report today aim to strike the right balance between keeping the continental shelf open for business while putting rigorous checks in place to ensure that the preservation and reuse of North Sea infrastructure, including for CCS, is appropriately considered before any decommissioning can take place.

The Government's proposals would allow the Secretary of State to ensure that decommissioning takes place in accordance with an approved decommissioning plan, enabling her to ensure that alternatives to decommissioning are taken into account and that the costs of plans are kept to the minimum reasonably practicable. The intention is very much to bring consideration of such reuse to the forefront of the process and ensure that opportunities are identified early, allowing for adequate commercial arrangements to be made between parties and preventing situations requiring a party to maintain an asset against their will.

I turn to non-government Amendment 21. This amendment seeks to insert a new clause after Clause 7. The new clause would require the Oil and Gas Authority to report to the Secretary of State if the operability of any element of critical oil and gas infrastructure is at risk due to the financial condition of the owner, or for any other reason. It would also enable the Secretary of State to provide financial support to maintain such assets, if she considers the asset is at risk of closure or becoming inoperable, and it is in the national interest for it to remain in operational order.

I, too, am concerned to ensure that critical oil and gas infrastructure is properly identified and safeguarded in the national interest. This is an area already being addressed by the Oil and Gas Authority. Its recent *Call to Action: Six Months On* report highlighted actions being taken to protect critical infrastructure. However, we will continue to monitor this work and provision in this Bill will already enable the Secretary of State to require action from the OGA if necessary.

8.15 pm

The existing drafting of Clause 5 "Directions: national security and public interest" and Clause 6 "Directions: requirements to notify Secretary of State" cover all the circumstances and issues identified in proposed new subsection (1) of the amendment. If this is not the case, the Pepper v Hart case of 1993 can be used on the basis of the debate today to indicate that that is the view of the operation of the clause.

[Lord Bourne of Aberystwyth]

Under Clause 5, the Secretary of State has the power to issue a direction to the Oil and Gas Authority as to the exercise of its functions, if the direction is either necessary in the interests of national security or otherwise is in the public interest. We believe that the operability of critical oil and gas infrastructure is in the public interest, and as such it is something in respect of which the Secretary of State could issue a direction. In support of this power, Clause 5(7) requires the OGA to notify the Secretary of State of any cases, matters or circumstance which have arisen or are likely to arise in relation to which she may issue a direction. The potential closure or shutdown of a nationally significant oil and gas infrastructure asset is an issue on which the Secretary of State would expect the OGA to report to her under the above provisions.

Where infrastructure is critical, there will almost certainly be a commercial deal to be done. It will be the role of the OGA to facilitate this by bringing parties together. Only once the market had failed to provide such a commercial deal would the Government step in. We are not yet in that place but, should it be necessary, we are of the view that sufficient financial mechanisms already exist that, in the event that such support was necessary, it could be provided by government, subject to approval by Her Majesty's Treasury. However, before such support could be given, the Government would need to ensure that they were acting in compliance with state aid rules. I hope noble Lords have found this explanation reassuring.

Non-government Amendment 77 seeks to insert a new clause into the Bill requiring the Secretary of State to report annually to both Houses of Parliament on the estimated cost of decommissioning North Sea oil and gas infrastructure. As we have discussed previously, the inevitable consequence of a maturing basin means that the future cost of decommissioning activity in the North Sea is expected to be substantial. This forthcoming increase in decommissioning activity presents a major opportunity to increase efficiencies and reduce costs to both the industry and the taxpayer.

We recognise that the reporting of costs plays an important role in this. Most importantly, we recognise the need for transparency regarding the costs that may ultimately fall to the taxpayer as a result of tax relief mechanisms for decommissioning costs mentioned by the noble Baroness, Lady Worthington. Our current estimates are that between 2015 and 2041, the cost to Her Majesty's Treasury would be £16 billion. Industry's costs would be well in excess of that. Those are, of course, estimates. To this end, Her Majesty's Revenue & Customs provides a detailed account of expected decommissioning liability in its annual accounts, which are publicly available.

The approach by which that liability is accounted for has recently been revised in order to provide a more long-term estimate of the costs of decommissioning. This provides both industry and government with a much fuller picture of the expected future cost landscape, allowing these costs to be robustly managed and ensuring that decommissioning is executed as efficiently as practically possible. I hope that this explanation, coupled with the relevant government amendments aimed at ensuring that the cost of decommissioning plans is kept to the minimum reasonably practicable, reassures noble Lords that the reduction of decommissioning costs is at the forefront of the Government's agenda. For these reasons I ask that Amendment 77 be not moved.

Government Amendment 84 inserts a new schedule into the Bill relating to decommissioning. This schedule is introduced by Amendment 73, and Amendment 85 amends the title of the Bill to ensure that Amendment 84 is within the scope of the Bill. We agree that decommissioning is an integral part of the life cycle of oil and gas infrastructure. There is a real need to manage the interrelationship between extending economic production, retaining facilities and utilities to optimise decommissioning, and preserving assets for future use where appropriate. As the inevitable consequence of a maturing basin, decommissioning activity in the North Sea is expected to ramp up significantly in the coming years. This increased activity will bring increased cost, as I have indicated. While the industry will bear the upfront cost of the decommissioning, a significant portion will be borne by the Government, as I have set out.

The forthcoming increase in decommissioning activity presents a major opportunity to increase efficiencies and reduce costs to both the industry and the taxpayer. It is imperative that costs are robustly managed and that decommissioning is executed as efficiently as practically possible, while ensuring that the highest safeguards for health and the environment are satisfied.

As noble Lords have recognised, there is also a need to preserve such infrastructure for reuse, where viable, as an alternative to decommissioning. The consideration of such reuse is essential in ensuring that key North Sea infrastructure is not decommissioned prematurely. I am sure we all agree it is vital that we also consider the viable reuse of relevant infrastructure for purposes not related to those to which it was originally put. Not only does the consideration of such reuse help to maximise field life but it facilitates the essential development of technologies such as carbon capture and storage. As such, the provisions in this amendment seek to provide a legislative framework within which these twin aims of viable reuse and reduction of costs can be achieved.

The provisions seek to ensure that the viable preservation and reuse of assets is considered by owners of relevant infrastructure as an alternative to decommissioning. As mentioned in the Wood review, and as discussed in Committee, this concept plays, and will continue to play, a crucial role in maximising economic recovery from the North Sea. As such, these provisions ensure that reuse is considered throughout the decommissioning process; for instance, the provisions set out in proposed paragraph 4 of the new schedule inserted by Amendment 84 require any person planning the decommissioning of an asset to first consult the OGA with regards to viable alternatives to decommissioning,

"such as re-using or preserving it".

A similar consultation duty is imposed on the Secretary of State, when deciding whether to approve a decommissioning plan, by paragraph 5. In addition, such a duty applies when a revision to a decommissioning

plan is proposed, as in paragraph 6; when amendments are proposed under an approved plan, as in paragraph 7; or when, in response to a failure to submit a plan, the Secretary of State imposes her own plan, as in paragraph 5.

As has been mentioned, it is essential to note that consideration of reuse at each stage of the decommissioning process should include reuse for purposes other than those for which the infrastructure was originally put. Importantly, this includes reuse for purposes related to carbon capture and storage. Viable reuse in this vein provides industries such as CCS with crucial opportunities for development, which these measures aim to ensure we do not miss.

Turning to how the provisions in the amendment seek to minimise the costs of decommissioning activities, it is vital we ensure that the costs of decommissioning are controlled and minimised throughout the decommissioning process, not least to ensure that the ultimate bill borne by the Government is minimised, a matter that noble Lords are rightly concerned about.

It is also important that costs are reduced in a way that is consistent with our domestic and international obligations regarding the environment and health and safety. These provisions seek to do this in the following ways. First, they create a consultative role for the OGA throughout the decommissioning process. Paragraphs 3 to 7 and paragraph 9 of the Schedule inserted by Amendment 84 oblige both those preparing to decommission and the Secretary of State to seek advice from the OGA at each step of the process regarding how to frame decommissioning plans to ensure that costs are minimised. From planning through approval to implementation, the OGA will have the power to scrutinise decommissioning activity to ensure that it represents the best value for money.

Secondly, the provisions create a duty on both those preparing decommissioning plans and the Secretary of State to ensure—whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise—that such plans are framed so as to ensure that the costs of carrying it out are kept to the minimum that is reasonably practicable in the circumstances, while ensuring the strongest safeguards for health and the environment are satisfied. Again, provisions in paragraphs 3 to 7 give effect to this.

Thirdly, the Secretary of State is given the power to require action to ensure that the costs of decommissioning are minimised while the plan is being implemented. The provisions in paragraph 8 allow the Secretary to State to intervene in the decommissioning process to ensure that specific measures are taken to reduce costs.

I hope that noble Lords will agree that the cumulative effect of these amendments relating to the reuse of infrastructure and the reduction of costs is a more robust and cost-effective decommissioning process that aims to ensure that suitable alternatives to decommissioning are considered at every possible opportunity and that decommissioning plans represent the best value for money.

Government Amendment 74 inserts a new clause after Clause 62 adding a further duty on owners of relevant offshore installations and upstream petroleum infrastructure beyond those in Section 9C of the Petroleum Act 1998, to act in accordance with the MER UK strategy when planning and carrying out decommissioning of such infrastructure. As I have mentioned, there is no doubt that ensuring the preservation and viable reuse of infrastructure—for example, to facilitate use for carbon capture and storage—as well as reducing the cost of carrying out decommissioning, is of crucial importance in our quest to maximise economic recovery from the North Sea. This amendment, coupled with the decommissioning obligations to be included in the draft strategy to maximise economic recovery of UK petroleum, will provide a clear legislative framework within which these vital decommissioning goals can be met.

This amendment, together with government Amendments 8 and 9—which I shall discuss further shortly—seeks to address this by ensuring that all owners of relevant offshore infrastructure are obliged to act in accordance with the strategy when planning and carrying out decommissioning of that infrastructure. Importantly, this amendment also clarifies that consideration of alternative uses of such infrastructure—including its reuse for purposes other than that to which the infrastructure was originally put, such as carbon capture and storage—plays a crucial role in this process.

Baroness Worthington: My Lords, I am grateful to the noble Lord, Lord Teverson, for speaking to Amendment 21 and to the Minister for speaking to the government amendments in this group. Part of the reason why I did not have a weekend is that these are quite substantial amendments to be bringing forward on Report. It is regrettable that we are considering this much detail on Report. However, on the positive side, they reflect that the Government have been listening to the concerns raised in this House. Those concerns have been consistently about the fitness of the purposes set for the OGA. We have tonight managed to win a vote that will look at again at those principal objectives.

I do not wish to go over old ground, but the fact that here we do need to change those objectives in order to add a new category of people into Section 9C indicates a need for those primary objectives to keep pace with what we are asking the OGA to do. Here we are making it clear that the decommissioning of the North Sea in particular is complex and is going to be a difficult job. Far from it being a distraction to make it clear that this is part of the OGA's job, this recognises that maximising the usefulness of that infrastructure going forward is clearly a fundamental aspect of what the OGA has to do. The concept of maximising economic recovery has indeed changed. Some of these amendments do change it, so it is only right and proper that the objectives of the organisation have been changed and should change.

8.30 pm

The Government's amendments are comprehensive and thorough. I suspect they are trying to tread this very careful line over how we avoid causing undue costs when we are not yet clear about the future—nobody has a crystal ball or can be 100% clear about the future. We want to preserve infrastructure, but at the

[Baroness Worthington]
same time we do not want to incur costs unnecessarily. This is not an easy thing and possibly why a little more time to reflect is needed—some more pre-legislative scrutiny might have helped us navigate this important area. None the less, we welcome the Government's amendments and the clarity that they bring, although this further highlights the need for a review of the OGA, as has been mentioned, and I do not know whether we can wait for three years. I know that is the maximum time we will have to wait, but given the seriousness of the situation, the complexity of this and the speed with which we are having to scrutinise this legislation on Report, a review earlier rather than later is definitely called for. However, I am happy at this stage to withdraw Amendment 19. As I say, the Government's amendments have gone some way to addressing our concerns.

I know we are not supposed to table probing amendments on Report, but Amendment 77 on the decommissioning costs was intended to enable us to have a debate about the decommissioning liabilities that are accruing. I sense that this subject will not go away and I imagine that, when the Bill transfers to the other place, people will comment on the open-ended nature of these liabilities. However, at this stage I am happy to withdraw my amendment.

Amendment 19 withdrawn.

Clause 7: Power of Secretary of State to require information and samples

Amendment 20

Moved by ***Lord Bourne of Aberystwyth***

20: Clause 7, page 5, line 10, leave out subsections (3) and (4) and insert—

"(3) The Secretary of State may use protected material only for the purpose for which it is provided.

(4) Protected material must not be disclosed—

(a) by the Secretary of State, or

(b) by a subsequent holder,

except in accordance with this section.

(5) For the purposes of subsection (4)(b), "subsequent holder", in relation to protected material, means a person who receives protected material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.

(6) Subsection (4) does not prohibit the Secretary of State from disclosing protected material so far as necessary for the purpose for which it was provided.

(7) Subsection (4) does not prohibit a disclosure of protected material if—

(a) the disclosure is required by virtue of an obligation imposed by or under any Act, or

(b) the OGA consents to the disclosure and, in a case where the protected material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure."

Lord Bourne of Aberystwyth: My Lords, government Amendment 20 places controls on the disclosure of information. Clause 7 of the Bill as introduced provides the Secretary of State with the power to require information from the OGA for certain purposes which are listed in subsection (1). The Secretary of State may disclose such information onwards for these same purposes or if required to under legislation, or with the consent of the OGA and, where applicable, that of the original information holder.

This amendment applies restrictions on the ability of any subsequent holders of this information to further disclose such information. It will ensure that they may do so only if required under or by an Act of Parliament or with the consent of the OGA and, where applicable, of the original provider of the information. This will ensure that potentially commercially valuable information provided to the OGA cannot be disclosed by subsequent holders of information except in certain narrowly prescribed circumstances. I beg to move.

Baroness Byford (Con): My Lords, I will contribute to this short debate by thanking the Minister for reconsidering this aspect of the Bill, which certainly caused me, and one or two other noble Lords, slight concerns as to what material was protected and how it should be protected. I welcome the amendment he has moved tonight. It is extremely important that the balance is right between the value of sharing information and the value of keeping protected, in a proper manner, information that really should be protected. I will not delay the House any longer but thank the Minister for having given thought to our discussions in Committee. I am happy to support this amendment.

Baroness Worthington: My Lords, I am grateful to the Minister for introducing Amendment 20 and to the noble Baroness, Lady Byford, for her comments. I am sure it is correct that material should be used only for the purpose for which it is provided, but I am left wondering what the concern or fear was. If the Minister will bear with me, I would like just one further clarification as to what, in real-world terms, we are avoiding here. Obviously we do not want unnecessary disclosure if the information is going to be misused, but I wonder what this is really for.

Lord Bourne of Aberystwyth: My Lords, I think I can answer that question. I thank my noble friend Lady Byford for her support. As I understand it, it is commercially sensitive information that would be protected in those circumstances, which seems entirely proper.

Amendment 20 agreed.

Amendment 21 not moved.

Clause 8: Powers of the OGA to charge fees

Amendment 22

Moved by ***Lord Bourne of Aberystwyth***

22: Clause 8, page 5, line 27, at end insert—

"( ) on an application made to it under section 12A of the Energy Act 1976;"

Amendment 22 agreed.

Amendment 23

Moved by ***Lord Bourne of Aberystwyth***

23: Clause 8, page 6, line 16, at end insert—

"( ) The OGA may not charge fees under this section for the exercise of any function which it is authorised to exercise by virtue of—

(a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or

(b) an agreement under section 3(3)."

Lord Bourne of Aberystwyth: My Lords, the Oil and Gas Authority has been set up to maximise economic recovery of petroleum from the continental shelf. The new body will be funded by industry. That is consistent with the "user pays" principle as industry will be benefiting from the work and expertise of the regulator. The OGA is providing a range of services to industry. Those services include issuing licences as well as issuing relevant consents and permits: for example, to begin petroleum production. It is right, and in compliance with *Managing Public Money*, that the costs of these services be recovered via direct fees rather than the general levy. This will ensure that only those requiring the service and benefiting from it will bear its costs.

Licensing of onshore oil and gas within Scotland and Wales is to be devolved to Scottish and Welsh Ministers respectively. Amendment 23 ensures that the OGA does not have a concurrent power to charge a fee where the matter has been devolved. I beg to move.

Baroness Worthington: My Lords, I am grateful for that explanation, which answers my question: this involves only activities which relate to devolved Administrations. Obviously, the OGA can charge fees to people whose activities are caught by its functions even if the word "benefit" might be open to interpretation. The Minister said that those who were not benefiting could not be charged fees. Would everyone necessarily benefit from the OGA? It is a regulator, so it might not always be seen to be beneficial. Can he clarify that?

Lord Bourne of Aberystwyth: I am happy to try. The word "benefit" is probably interpreted objectively rather than subjectively—possibly in a slightly paternalistic way. Where a service is provided for somebody, they should pay for it. I hope that that provides clarification.

Amendment 23 agreed.

Clause 9: Levy on licence holders

Amendment 24

Moved by ***Lord Bourne of Aberystwyth***

24: Clause 9, page 6, line 37, after "exceed" insert "the sum of—"

Lord Bourne of Aberystwyth: My Lords, Amendments 24 and 25 amend Clause 9 to ensure that the costs payable to the OGA through the levy on licence holders include the costs incurred by Her Majesty's Courts and Tribunal Service in relation to the setting up and running of the appeal right against the OGA's sanctions.

The First-tier Tribunal is an established judicial body, but adding a new appeal right to its functions incurs administrative costs. It is normal practice for HM Courts and Tribunal Service to pass costs associated with setting up and running new appeal rights to the body for whom the appeal right is being established. The amendment ensures that such costs will be met by industry, as the regulated community for whom the appeal right is provided, through the levy. I beg to move.

Amendment 24 agreed.

Amendment 25

Moved by ***Lord Bourne of Aberystwyth***

25: Clause 9, page 6, line 38, at end insert—

"( ) the costs incurred in respect of that period by the Lord Chancellor in connection with the provision of Tribunals to consider appeals against decisions of the OGA, and"

Amendment 25 agreed.

Amendment 26

Moved by ***Lord Bourne of Aberystwyth***

26: After Clause 11, insert the following new Clause—

"Review of OGA and guidance from Secretary of State

(1) The Secretary of State must review the OGA's performance for each review period.

(2) The first review period—

(a) begins with the day on which section 1 comes into force, and

(b) ends at the end of the three year period beginning with that day, or on such earlier day as the Secretary of State may determine.

(3) Subsequent review periods—

(a) begin with the day ("the first day") after the last day of the preceding review period,

(b) end at the end of the three year period beginning with the first day, or on such earlier day as the Secretary of State may determine.

(4) A review must, in particular—

(a) assess how effective the OGA has been in exercising its functions, and

(b) consider the OGA's functions under—with regard to their fitness for purpose and scope.

(i) Part 2, and

(ii) Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide),

with regard to their fitness for purpose and scope.

(5) As soon as practicable after a review period, the Secretary of State must—

(a) publish a report of the findings of the review for that period, and

(b) lay a copy of the report before Parliament.

(6) As a result of the findings of a review, the Secretary of State may give guidance to the OGA about any matter relating to the OGA's functions.

(7) The OGA must take account of any such guidance in carrying out its functions.

(8) For the purposes of this section "function" does not include any function which the OGA is authorised to exercise by virtue of—

(a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or

(b) an agreement under section 3(3)."

Amendments 27 and 28 (to Amendment 26)

Moved by ***Baroness Worthington***

27: After Clause 11, line 7, leave out "three" and insert "one"

28: After Clause 11, line 12, leave out "three" and insert "one"

Amendments 27 and 28 (to Amendment 26) agreed.

Amendment 26, as amended, agreed.

Clause 12: Overview of Part 2

Amendment 29

Moved by ***Lord Bourne of Aberystwyth***

29: Clause 12, page 9, line 15, leave out paragraph (d)

Lord Bourne of Aberystwyth: My Lords, I now speak to government Amendments 29, 30, 33, 41 to 43 and 61 to 70, which create a new Chapter 6, titled "Disclosure". This covers the powers of the Oil and Gas Authority to share information. This chapter consists of new clauses, which are described later in the Bill, and, for clarity, and on the advice of parliamentary counsel, we have consolidated the various existing information disclosure provisions in Chapters 2 to 5 of Part 2 of the Bill into this new Chapter 6.

Amendments 29 and 30 introduce the fact that there is a new Chapter 6 and make a consequential amendment at the start of Part 2.

Amendments 33, 41, 42, 43 and 61 remove the provisions dealing with the disclosure of information obtained under the current clauses—that is, Clause 21, "Disputes: disclosure", Clauses 31 and 32, "Disclosure of information and provision of samples" and "Timing of disclosure", Clause 39, "Meetings", and Clause 58, "Sanctions"—which are now contained in Chapter 6. There is no change to their legal effect.

Amendments 62 to 70 consolidate into the new Chapter 6 the information disclosure provisions previously included in Chapters 2 to 5 of Part 2, and introduce the two new powers to enable the Oil and Gas Authority to disclose information to UK governmental bodies and for the purpose of legal proceedings.

Amendments 62 and 63 reinstate the general prohibition on disclosure of protected information by the Oil and Gas Authority, or a subsequent holder of such information, as applicable to the disclosure provisions of the Bill as introduced. These amendments are therefore required to consolidate the disclosure provisions into the new Chapter 6.

Amendment 64 inserts a new disclosure power permitting the OGA to disclose information obtained under specified chapters of Part 2 to certain listed UK governmental bodies to facilitate the carrying out of their functions. Owing to the possible inclusion of commercially valuable data within chapters of the Bill as introduced, the existing disclosure provisions in the Bill provide only narrow powers for information to be disclosed by the OGA, such as where required by an Act of Parliament or with the consent of the information owner. This may have prevented the OGA from disclosing information obtained under these powers to DECC and its agencies, such as the Office of Carbon Capture and Storage, other central government departments, the devolved Administrations and law enforcement agencies. These amendments will allow the OGA to disclose information obtained under Part 2 to such listed UK government bodies for the purpose of their functions.

I can advise noble Lords that any changes to the list of bodies or to the categories of information they may receive may be made only by affirmative resolution of both Houses of Parliament.

Amendments 65, 66, 67, 68 and 69 consolidate the disclosure provisions which were already included in the Bill covering, respectively, general disclosure required for the OGA to prepare returns and reports, disclosure in the exercise of its disputes and sanctions powers, release after a specified confidentiality period and disclosure with consent, or as required by legislation. The effect of these provisions is unchanged. Lastly, Amendment 70 provides authority for the OGA to disclose information if required for civil or arbitration proceedings or to law enforcement bodies for the investigation or prevention of criminal activities.

8.45 pm

I now turn to government Amendments 76 and 87, which deal with information-sharing with foreign Governments. Amendment 76 inserts a new clause covering the exchange of information with foreign Governments. Amendment 87 alters the Title of the Bill to ensure that Amendment 76 is within its scope.

Her Majesty's Government engage in co-operative arrangements for the exploitation of transboundary oil and gas reserves and for the use of infrastructure, such as pipelines, with a number of partner nations, including Norway, the Netherlands and the Republic of Ireland. These arrangements are set out in a number of treaty agreements. Conducting such activities requires Her Majesty's Government to share information with foreign Governments. This amendment provides the authority for the Oil and Gas Authority, as a representative of the Government, to continue to disclose information under the existing licensing arrangements and under the powers in Part 2 of the Bill for the purposes of giving effect to such treaties. This amendment also provides the Secretary of State with a similar power to share information with foreign Governments.

There are a number of conditions attached to any disclosure to ensure that information is protected. The treaty must include provisions governing information exchange, and the Secretary of State, or the Oil and Gas Authority as applicable, must be content that adequate safeguards are in place in the receiving nation to ensure that information is protected before disclosing. In addition, no onward disclosure of the information

by the foreign Government is permitted without Her Majesty's Government's consent unless a treaty allows the production of general reports. I trust that noble Lords agree that co-operation with partner nations is vital to our exploitation of oil and gas and to our industry, and I beg to move.

Baroness Maddock (LD): My Lords, this group of amendments highlights something we have already raised today: a lot are technical, they are quite long and we had very little time over the weekend to get round to looking at them in detail. It is not very satisfactory. However, we on these Benches certainly welcome consultation. It is something we have always supported. I am surprised that these amendments dealing with co-operation with other nations with regard to gas and oil were not in the Bill originally as co-operation is rather key. Earlier in the proceedings, I asked whether we are looking at the way Norway operates. I am sure that when it is looking at these matters, it takes them into consideration. I have raised this concern, as have other people, during the passage of the Bill. We find it very difficult to scrutinise properly, in the way this House should, when we get information so late. I shall probably not speak again tonight, but we have another day on Report on Wednesday, and we will be in exactly the same position.

Lord Grantchester (Lab): My Lords, I thank the Minister for explaining these amendments, which reshape disclosure into a separate chapter in the Bill. They all seem reasonable enough, but they give rise to consideration of why they are now being so adjusted. I follow the noble Baroness, Lady Maddock, in her comments about the short notice and the comments made earlier by my noble friend Lady Worthington regarding the future prospects of the OGA and the Government's intentions regarding it. One wonders whether something has happened. Can the Minister inform the House whether attention has been drawn to them so that they get consolidated? Can the Minister confirm that the Data Protection Act applies to the ODA with regard to information generally and to disclosure? Will he clarify the position and provide some assurances about questions that come to mind in relation to disclosure to third parties? We would support sharing information with other government departments and agencies, including the devolved Administrations, for the purposes of their functions, as the OGA will need to be able to work collaboratively with the different departments and the department itself.

In relation to third parties and foreign Governments, care certainly needs to be exercised and precautions taken with regard to possible unintended consequences. Will anything appear in the public domain regarding the nature and frequency of the sharing of information with foreign Governments? The Minister will be aware that there could be many agencies, especially regarding the environment, where the Government could come under scrutiny in how they handle sensitive information, and where any secrecy between Governments could be misconstrued.

On another point, is the Minister satisfied on the question of the Secretary of State undertaking a review into these matters? Will the Secretary of State have any oversight and details of the information shared by the OGA? Would there be any independent oversight of disclosures regarding legal proceedings and foreign Governments? Could the Minister give an example of the information that might be requested and then shared in relation to these amendments? That would certainly help to settle any disquiet that these powers could give rise to. Meanwhile, the amendments seem well balanced and reasonable.

Lord Oxburgh (CB): I thank the Minister for his comment earlier on Amendment 72. I have a specific question on Amendment 64. It relates to Clause 31(3)(b), which says that disclosures may be made to the National Environment Research Council,

"or any other similar body carrying out geological activities".

My question is simply what those other similar bodies might be. For example, would they be universities carrying out geological activities?

Lord Bourne of Aberystwyth: I am grateful to noble Lords who have participated in the debate on this part of the Bill. I acknowledge the point, as I think I did previously, about the technical nature of these late amendments. I understand the point made forcefully and correctly by the noble Baroness, Lady Maddock. On the general point about consolidation, I think there is general welcome for that, to try to ensure that everything is all in one place.

There were then some specific questions about the sharing of information with foreign Governments. I think that the legislation will be subject to the Data Protection Act; that is quite true. My understanding is that disclosure to third parties is not appropriate. If there is a body that the information is being shared with, whether domestically or with an overseas Government, that is the limit of it for the function concerned, unless, for example, the treaty were to provide otherwise. I am trying to think of the type of information that might be shared. The examples that I gave of Norway, Ireland, the Netherlands and so on are probably in relation to interconnectors. There may be a need to share information about where pipelines are at the moment, and so on. That is the sort of thing, rather than anything of an operational nature; I do not anticipate there being anything in any way sinister about this. I will write to the noble Lord, Lord Grantchester, about the oversight of the Secretary of State. I think that she would have oversight of this, but I will check that point. I shall also check whether there is to be publication of the information concerned. I cannot see why not, in all honesty; as I say, this is a functional managerial thing rather than anything else.

The noble Lord, Lord Oxburgh, raised a point about Clause 31(3)(b) regarding the National Environment Research Council or other similar bodies. I anticipate that that would include universities. The other eventuality covered here is if for any reason the council were to cease to exist and something else were to take over its functions—it is most unlikely—that would then qualify as a similar body. I hope that that deals with the points that were made.

Noble Lords will be interested to know that arrangements exist in treaties to ensure that the Secretary of State is satisfied that adequate protection is in place.

[Lord Bourne of Aberystwyth]
An example is the showing of protection measurement systems and production measurement for joint fields of exploration in the North Sea. In relation to the point made about consolidation, for which I think we have general support, it was parliamentary counsel's advice to consolidate those disclosure provisions. That is not an attempt to take the credit for what we all think is a very good idea, but it is to give credit to the parliamentary counsel for that. I hope that helps.

Amendment 29 agreed.

Amendment 30

Moved by ***Lord Bourne of Aberystwyth***

30: Clause 12, page 9, line 24, at end insert—

"(6) Chapter 6 makes provision about the disclosure of information and samples which have been obtained by the OGA under this Part."

Amendment 30 agreed.

Clause 16: Action by the OGA on a dispute reference

Amendment 31

Moved by ***Lord Bourne of Aberystwyth***

31: Clause 16, page 11, line 44, leave out from "parties" to "in" in line 45 and insert—

"(a) under subsection (5)(a), or

(b) by directions under subsection (5)(b),

are sanctionable"

Lord Bourne of Aberystwyth: My Lords, I will now speak to government Amendments 31 and 32, 44 and 45, 47, 49 to 52, 54, 58 to 60 and 79 to 82. The majority of these make minor and technical changes to Chapters 2 and 5 of Part 2 of the Bill. Amendments 49 and 52 also provide for the effect of devolution. These amendments are either drafting improvements or are clarificatory in nature and do not alter the policy intent of the relevant clauses. Other amendments in this group make provision regarding the powers in the Bill to make regulations.

Amendments 31, 32 and 44 are intended to achieve the same aim. They make minor changes to Clauses 16 and 18 of Chapter 2 and Clause 42 of Chapter 5. They provide clarification so that there is no doubt that when the OGA gives a direction that imposes a requirement on a person, that requirement is a "petroleum-related requirement" within the meaning of Clause 41(3)(c). This makes clearer the policy intention that the OGA may give a sanction notice in respect of a breach of a requirement imposed by such a direction.

Amendments 47 and 52 are intended to achieve the same aim. They make minor changes to Clauses 46 and 47 of Chapter 5 to clarify the policy intention that the OGA should be able to give revocation notices and operator removal notices to a licence holder and an operator only in respect of a breach of a "petroleum-related requirement" imposed on the licence holder or operator in that capacity.

The Petroleum Act 1998 imposes a duty to act in accordance with the strategy to maximise economic recovery of United Kingdom petroleum. This acts upon various categories of persons, including licensees and owners of upstream petroleum infrastructure. Where a person acts in more than one such capacity, the amendment makes it clear that the OGA cannot, for example, give a licence revocation notice to an owner of upstream petroleum infrastructure in respect of a breach of the duty to act in accordance with the strategy imposed on the person as an owner of upstream petroleum infrastructure if that person also happens to be a licence holder.

Amendments 49 and 54 are intended to achieve the same aim. They amend Clauses 46 and 47 of the Bill to prevent the OGA giving an operator removal notice or revocation notice in relation to licences which, on the date the notice is given, the OGA would not have the power to grant. This amendment removes the possibility for the OGA to revoke a licence or remove the operator of a licence in circumstances where the OGA does not have the power to grant the licence. This reflects the proposed devolution through the Scotland Bill and the forthcoming Wales Bill—to be published in draft form tomorrow—of the licence-granting functions in respect of onshore licences under the Petroleum Act 1998.

Amendment 50 makes minor changes to Clause 46 to ensure that existing obligations binding a licensee remain in cases where the OGA issues a revocation notice under Clause 46. The amendment provides clarification and ensures certainty that the provisions of licences will apply following revocation of the licence under Clause 46 in the same way as they would apply if the licence were revoked under the terms of the licence. It does not alter the policy intention.

Amendment 51 makes a minor drafting change to the wording of Clause 46(8) for consistency with the wording of Clause 46(4). There is no change of policy. Amendment 58 makes a minor change to Clause 51 to place it beyond doubt that on an appeal against a revocation notice or an operator removal notice which is given by the OGA, the tribunal's powers to vary the notice are limited to varying the date on which revocation of the licence or removal of the operator takes effect.

9 pm

Amendments 45, 59 and 60 are intended to clarify that if the OGA gives a financial penalty notice which does not require compliance with a "petroleum-related requirement" within a specified period—for example, because the requirement has already been remedied at the time the notice is given—no further sanction notice may be given in respect of the breach. This merely clarifies the existing policy intention.

After speaking to Amendments 79, 80 and 81, which deal with information disclosure, I will speak to Amendment 82. These first amendments modify Clause 67, which makes provision regarding the powers in the Bill to make regulations. Amendments 79 and 80 are consequential changes that are required to deal with the fact that the power to make regulations permitting publication of information obtained under Chapter 3—which deals with "information and samples"—have now been consolidated within the new Chapter 6.

Amendment 81 reflects Her Majesty's Government's intention that any changes to the list of bodies to which the Oil and Gas Authority may disclose information or to the categories of information that may be disclosed under Amendment 64 must be made by regulation approved by each House of Parliament.

On Amendment 82, currently the Bill contains provisions which require the Secretary of State to consult the OGA before exercising her power to make certain regulations. This is an important requirement, which ensures that the views of the OGA as an independent regulator are taken into account. However, this requirement would initially be problematic and impractical, because the Secretary of State would be under an obligation to consult the OGA in circumstances where it does not have any functions or staff, and it would also cause delay.

This amendment seeks to disapply the consultation requirement to any first exercise of each of the Secretary of State's powers to make regulations that occurs within one year, beginning with the date on which the provision establishing the OGA comes into force. We do not think that disapplying this requirement would be a problem, because the OGA would initially be an executive agency of the department—that is, it is legally indistinct from the department. Officials in the OGA would therefore still have a key role in developing the policy which will be given effect by the regulations. I beg to move.

Baroness Worthington: My Lords, I did not intend to speak any more this evening. I thank the Minister for running through all these amendments. Amendment 82, on the disapplication of the requirement to consult the OGA, caught my attention. I am feeling slightly bruised by the Bill, and if the regulations that come from it are anything like this process, it will be a dreadful experience. I am therefore hopeful that any regulations made under the Act will receive due care and attention and that proper time will be made available for their development. Part of that would naturally mean that consultation would take place. I am left with the following question. If, in the first year, in which we can expect quite a raft of regulations to flow, we are not consulting the OGA, who will be consulted?

I know that the Minister will be tempted to say that there will not be any staff, and it will not be possible. However, we already have an OGA, which has been in existence for some time, and it clearly can and does offer advice. Indeed, representatives of the OGA attended a meeting with the Minister when we discussed CCS. Therefore, I do not follow the logic and I am slightly concerned about the issue of proper consultation for these regulations. For the majority of the Bill, we have not seen proper consultation, and I would hate that to be repeated with the regulations.

Lord Bourne of Aberystwyth: My Lords, we intend to bring in regulations as quickly as possible once the relevant powers are commenced. Because of this, the drafting and formulating of some regulations will have to be done before the OGA is established as a government company and functions and staff are transferred to it. The year timeframe will apply only to the first set of regulations made under each power within that period, so it will not necessarily apply throughout that period. A year is the outside limit that can apply, and it will apply to a set of regulations made under each power. That gives us the opportunity to pass regulations before the OGA is up and running effectively. I accept what the noble Baroness says about it already having staff. Yes, it has, but it is not really up and running and functional as yet, and that is what is intended.

Baroness Worthington: As I understand it, the Bill states that the company originally incorporated under the Companies Act as the Oil and Gas Authority Ltd is renamed the Oil and Gas Authority. Clearly it exists, it has staff and it performs functions, but I simply do not understand why there is a one-year period. Perhaps the Minister could write to me with further information. Furthermore, the idea that he is going to bring forward regulations quickly fills me with dread.

Lord Bourne of Aberystwyth: I do not think I said that it would necessarily be quick; I said it would be within the year. The noble Baroness makes a valid point, but I come back to the point not that it is not set up—I agree that it is—but that it is not fully functional as yet. I will gladly write to the noble Baroness and perhaps give some examples of what this is intended to cover. I beg to move.

Amendment 31 agreed.

Clause 18: Procedure for consideration of disputes

Amendment 32

Moved by ***Lord Bourne of Aberystwyth***

32: Clause 18, page 12, line 32, leave out "Directions given by the OGA to relevant parties" and insert "Requirements imposed by directions"

Amendment 32 agreed.

Clause 21: Disputes: disclosure

Amendment 33

Moved by ***Lord Bourne of Aberystwyth***

33: Clause 21, leave out Clause 21

Amendment 33 agreed.

Clause 23: Petroleum-related information and samples

Amendment 34

Moved by ***Lord Bourne of Aberystwyth***

34: Clause 23, page 15, line 17, at end insert—

"(2) In this Chapter, "petroleum-related information" and "petroleum-related samples" include information or samples acquired or created as mentioned in subsection (1) which are relevant to activities carried out under a carbon dioxide storage licence.

"(3) In subsection (2) "carbon dioxide storage licence" means a licence granted under section 18 of the Energy Act 2008."

Amendment 34 agreed.

Clause 29: Information and samples plans: supplementary

Amendments 35 to 38

Moved by ***Lord Bourne of Aberystwyth***

35: Clause 29, page 17, line 36, after "licensee" insert "or to a person holding a carbon dioxide storage licence"

36: Clause 29, page 17, line 37, at end insert—

"( ) An information and samples plan prepared by the OGA under section 27(4) may not include provision under subsection (1)(b) for the transfer of information or samples to another person without the consent of the responsible person."

37: Clause 29, page 17, line 37, at end insert—

"( ) Where an information and samples plan makes provision under subsection (1) for a person, other than the responsible person, to hold information or samples in accordance with the plan—

(a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and

(b) any such requirements are sanctionable in accordance with Chapter 5."

38: Clause 29, page 18, line 5, at end insert—

"( ) In subsection (1)(b) "carbon dioxide storage licence" means a licence granted under section 18 of the Energy Act 2008."

Amendments 35 to 38 agreed.

Clause 30: Power of the OGA to require information and samples

Amendments 39 and 40

Moved by ***Lord Bourne of Aberystwyth***

39: Clause 30, page 18, line 10, after "objective" insert "or which relate to activities carried out under a carbon dioxide storage licence"

40: Clause 30, page 18, line 30, at end insert—

"( ) In subsection (1) "carbon dioxide storage licence" means a licence granted under section 18 of the Energy Act 2008."

Amendments 39 and 40 agreed.

Clause 31: Disclosure of information and provision of samples

Amendment 41

Moved by ***Lord Bourne of Aberystwyth***

41: Clause 31, leave out Clause 31

Amendment 41 agreed.

Clause 32: Timing of disclosure etc: supplementary

Amendment 42

Moved by ***Lord Bourne of Aberystwyth***

42: Clause 32, leave out Clause 32

Amendment 42 agreed.

Clause 39: Meetings: disclosure

Amendment 43

Moved by ***Lord Bourne of Aberystwyth***

43: Clause 39, leave out Clause 39

Amendment 43 agreed.

Clause 42: Enforcement notices

Amendment 44

Moved by ***Lord Bourne of Aberystwyth***

44: Clause 42, page 25, line 16, leave out "Directions" and insert "Requirements imposed by directions"

Amendment 44 agreed.

Clause 43: Financial penalty notices

Amendment 45

Moved by ***Lord Bourne of Aberystwyth***

45: Clause 43, page 25, line 28, leave out from "notice" to end of line 30 and insert ", in a case where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and"

Amendment 45 agreed.

Amendment 46

Moved by ***Lord Bourne of Aberystwyth***

46: Clause 43, page 25, leave out lines 34 and 35 and insert "end of the period of 28 days beginning with the day on which the financial penalty notice was given."

Lord Bourne of Aberystwyth: My Lords, I will speak to government Amendments 46, 48, 53, 55, 56 and 57. These amendments make minor changes to Chapter 5 of Part 2 of the Bill to harmonise the provisions relating to appeals against the OGA's sanctions with the procedural rules for the General Regulatory Chamber of the First-tier Tribunal. The procedural rules are made by the Tribunal Procedures Committee. These rules govern the practice and procedure in the First-tier Tribunal and Upper Tribunal.

Amendment 55 deletes subsection (2) of Clause 49, which has the effect of removing the 28-day period for bringing an appeal against the OGA's sanctions. The time period for bringing an appeal will therefore revert to that set out within the tribunal procedural rules, which is also set at 28 days but which allows the tribunal discretion to extend that time period beyond the 28-day period.

As a result of Amendment 55, Amendments 46, 48 and 53 make consequential amendments to the clauses dealing with financial penalty notices, revocation notices and operator removal notices, which currently cross-refer to the existing 28-day period referred to in Clause 43(2). This ensures that, notwithstanding the deletion of this 28-day time period, a financial penalty notice, revocation notice or operator removal notice still cannot take effect until 28 days after the relevant sanction notice was given. This ensures that, regardless of the removal of the 28-day period referred to in Clause 49, a person is still given an appropriate opportunity to appeal before a sanction takes effect.

Amendment 56 amends Clause 49 to make it clear that, where an appeal is made to the First-tier Tribunal against a sanction notice and the sanction notice ceases to have effect, the effect of that suspension lasts until the tribunal confirms, varies or cancels the notice.

Amendment 57 adds a new subsection to Clause 49 to provide that, where an appeal is brought against a sanction imposed by the OGA, either the First-tier Tribunal or the Upper Tribunal may further suspend the effect of that sanction for the duration of any further appeal to the Upper Tribunal. I beg to move.

Lord Grantchester: I thank the Minister for providing the details of the amendments. They seem minor in nature and largely clarificatory—that is rather a long word at this time of night—and therefore they should raise no objection.

Lord Bourne of Aberystwyth: My Lords, I am most grateful to the noble Lord. It is a long word at this time of night or indeed at any other time.

Amendment 46 agreed.

Clause 46: Revocation notices

Amendments 47 to 51

Moved by ***Lord Bourne of Aberystwyth***

47: Clause 46, page 26, line 24, leave out subsection (2) and insert—

"( ) A revocation notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on a licensee in that capacity."

48: Clause 46, page 26, line 34, leave out from "period" to end of line 36 and insert "of 28 days beginning with the day on which the revocation notice was given."

49: Clause 46, page 26, line 36, at end insert—

"( ) A revocation notice may not be given in circumstances where the licence to be revoked in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant."

50: Clause 46, page 26, line 38, leave out from "notice" to end of line 42 and insert—

"(a) the rights granted to the person by the licence cease on the revocation date;

(b) the revocation does not affect any obligation or liability imposed on or incurred by the person under the terms and conditions of the licence;

(c) the terms and conditions of the licence apply as if the licence had been revoked in accordance with those terms and conditions, subject to section 55(2)."

51: Clause 46, page 27, line 6, leave out "respect of" and insert "relation to"

Amendments 47 to 51 agreed.

Clause 47: Operator removal notices

Amendments 52 to 54

Moved by ***Lord Bourne of Aberystwyth***

52: Clause 47, page 27, line 12, leave out subsection (2) and insert—

"( ) An operator removal notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on an operator under a petroleum licence in that capacity."

53: Clause 47, page 27, line 30, leave out from "period" to end of line 32 and insert "of 28 days beginning with the day on which the operator removal notice was given."

54: Clause 47, page 27, line 32, at end insert—

"( ) An operator removal notice may not be given in circumstances where the licence under which the operator operates is one which, on the date the notice is given, the OGA would not have the power to grant."

Amendments 52 to 54 agreed.

Clause 49: Appeals in relation to sanction notices

Amendments 55 to 57

Moved by ***Lord Bourne of Aberystwyth***

55: Clause 49, page 28, line 41, leave out subsection (2)

56: Clause 49, page 28, line 44, leave out "in respect of the appeal" and insert "to confirm, vary or cancel the notice."

57: Clause 49, page 28, line 44, at end insert—

"( ) Where, on an appeal made in relation to a sanction notice—

(a) the Tribunal makes a decision to confirm or vary the notice, and

(b) an appeal is or may be made in relation to that decision,

the Tribunal, or the Upper Tribunal, may further suspend the effect of the notice pending a decision which disposes of proceedings on such an appeal."

Amendments 55 to 57 agreed.

Clause 51: Appeals against sanction imposed

Amendment 58

Moved by ***Lord Bourne of Aberystwyth***

58: Clause 51, page 30, line 18, leave out from "decision" to end of line 22 and insert "to revoke a licence or to require the removal of an operator the Tribunal may—

(a) confirm the decision,

(b) vary the decision by changing the revocation date or the removal date, as the case may be, or

(c) quash the decision, and

confirm, vary or cancel the sanction notice in question accordingly."

Amendment 58 agreed.

Clause 53: Subsequent sanction notices

Amendments 59 and 60

Moved by ***Lord Bourne of Aberystwyth***

59: Clause 53, page 31, line 2, at end insert—

"( ) If the sanction notice given is a financial penalty notice which does not require compliance with the petroleum-related requirement, no further sanction notices may be given in respect of the failure to comply."

60: Clause 53, page 31, line 3, leave out "an enforcement notice or a financial penalty notice" and insert—

"(a) an enforcement notice, or

(b) a financial penalty notice which requires compliance with the petroleum-related requirement."

Amendments 59 and 60 agreed.

Clause 58: Sanctions: disclosure

Amendment 61

Moved by ***Lord Bourne of Aberystwyth***

61: Clause 58, leave out Clause 58

Amendment 61 agreed.

Amendments 62 to 70

Moved by ***Lord Bourne of Aberystwyth***

62: After Clause 60, insert the following new Clause—

"6 Disclosure

General prohibition

Prohibition on disclosure

Protected material must not be disclosed—

(a) by the OGA, or

(b) by a subsequent holder,

except in accordance with this Chapter."

63: After Clause 60, insert the following new Clause—

"Meaning of "protected material" and related terms

(1) In this Chapter "protected material" means information or samples which have been obtained by the OGA under this Part.

(2) In this Chapter—

"original owner", in relation to protected material provided to the OGA under this Part, means the person by or on whose behalf, the protected material was so provided;

"subsequent holder", in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with this Chapter.

(3) References to disclosing protected material include references to making the protected material available to other persons (in a case where the protected material includes samples)."

64: After Clause 60, insert the following new Clause—

"Permitted disclosures

Disclosure by OGA to certain persons

(1) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material by the OGA which—

(a) is made to a person mentioned in column 1 of the table below,

(b) is made for the purpose of facilitating the carrying out of that person's functions, and

(c) is a disclosure of information obtained by the OGA under a Chapter mentioned in the corresponding entry of column 2 of the table.

Column 1	*Column 2*
A Minister of the Crown	Chapters 2 to 5
Her Majesty's Revenue and Customs	Chapters 2 to 4
The Competition and Markets Authority	Chapters 2 to 5
The Scottish Ministers	Chapter 3
The Welsh Ministers	Chapter 3
A Northern Ireland Department	Chapter 3
The Coal Authority	Chapter 3
The Office for Budget Responsibility	Chapter 3
An enforcing authority	Chapters 2 to 5
The competent authority under article 8 of the Offshore Safety Directive	Chapters 2 to 5
The Statistics Board	Chapters 2 to 5

(2) In the table—

"enforcing authority" has the same meaning as in Part 1 of the Health and Safety at Work etc Act 1974 (see section 18(7)(a) of that Act);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"Offshore Safety Directive" means Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations.

(3) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material by the OGA which—

(a) is a disclosure of protected material obtained by it under Chapter 3 (information and samples),

(b) is made to the Natural Environment Research Council, or any other similar body carrying on geological activities, and

(c) is made for the purpose of enabling the body to prepare and publish reports and surveys of a general nature using information derived from the protected material.

(4) A person to whom protected material is disclosed by virtue of subsection (1) or (3) may use the protected material only for the purpose mentioned in subsection (1)(b) or (3)(c) (as the case may be).

(5) Section (Prohibition on disclosure) does not prohibit such a person from disclosing the protected material so far as necessary for that purpose.

(6) The Secretary of State may by regulations amend the table in subsection (1)—

(a) to remove a person from column 1,

(b) to add to column 1 a person to whom subsection (7) applies, or

(c) to add, remove or change entries in column 2.

(7) This subsection applies to—

(a) persons holding office under the Crown;

(b) persons in the service or employment of the Crown;

(c) persons acting on behalf of the Crown;

(d) government departments;

(e) publicly owned companies as defined in section 6 of the Freedom of Information Act 2000."

65: After Clause 60, insert the following new Clause—

"Disclosure required for returns and reports prepared by OGA

(1) Section (Prohibition on disclosure) does not prohibit the OGA from using protected material obtained by the OGA under Chapter 3 (information and samples) for the purpose of—

(a) preparing such returns and reports as may be required under obligations imposed by or under any Act;

(b) preparing and publishing reports and surveys of a general nature using information derived from the protected material.

(2) Section (Prohibition on disclosure) does not prohibit the OGA from disclosing protected material so far as necessary for those purposes."

66: After Clause 60, insert the following new Clause—

"Disclosure in exercise of certain OGA powers

(1) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material if—

(a) the protected material was obtained by the OGA under Chapter 2 (disputes), and

(b) the disclosure is made in the exercise of the OGA's powers under section 18(6) (publication of recommendations for resolving disputes).

(2) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material if it is made in the exercise of the OGA's powers under section 52 (publication of details of sanctions).

(3) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material which is permitted by section (International oil and gas agreements: information exchange) (international oil and gas agreements: information exchange)."

67: After Clause 60, insert the following new Clause—

"Disclosure after specified period

(1) Section (Prohibition on disclosure) does not prohibit protected material obtained by the OGA under Chapter 3 (information and samples) from being—

(a) published, or

(b) made available to the public (in a case where the protected material includes samples),

by the OGA or a subsequent holder at such time as may be specified in regulations made by the Secretary of State.

(2) Regulations under subsection (1) may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person.

(3) Before making regulations under subsection (1), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(4) Subsection (3) does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the OGA in relation to what time should be specified in regulations under subsection (1).

(5) In determining the time to be specified in respect of protected material in regulations under subsection (1), the Secretary of State must have regard to the following factors—

(a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;

(b) any potential benefits to the petroleum industry of protected material being published or made available at the specified time;

(c) any potential risk that the specified time may discourage persons from acquiring or creating petroleum-related information or petroleum-related samples (as defined in section 23);

(d) any other factors the Secretary of State considers relevant.

(6) In balancing the factors mentioned in subsection (5)(a) to (d), the Secretary of State must take into account the principal objective.

(7) For the purposes of subsection (5)(a), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under Chapter 3 (information and samples)."

68: After Clause 60, insert the following new Clause—

"Disclosure with appropriate consent

(1) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material if it is made with the appropriate consent.

(2) For this purpose a disclosure is made with the appropriate consent if—

(a) in the case of disclosure by the OGA, the original owner consents to the disclosure;

(b) in the case of disclosure by a subsequent holder—

(i) the OGA consents to the disclosure, and

(ii) in a case where the protected material in question was provided to the OGA under this Part, the OGA confirms that the original owner of the material also consents to the disclosure."

69: After Clause 60, insert the following new Clause—

"Disclosure required by legislation

Section (Prohibition on disclosure) does not prohibit a disclosure of protected material required by virtue of an obligation imposed by or under any Act."

70: After Clause 60, insert the following new Clause—

"Disclosure for purpose of proceedings

(1) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—

(a) civil proceedings, or

(b) arbitration proceedings.

(2) Section (Prohibition on disclosure) does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—

(a) the investigation or prosecution of criminal offences, or

(b) the prevention of criminal activity."

Amendments 62 to 70 agreed.

Amendments 71 and 72 not moved.

Amendments 73 to 76

Moved by ***Lord Bourne of Aberystwyth***

73: After Clause 62, insert the following new Clause—

"Abandonment of offshore installations

Schedule (Abandonment of offshore installations) makes provision about the abandonment of offshore installations."

74: After Clause 62, insert the following new Clause—

"Duty to act in accordance with strategy: decommissioning and alternatives

(1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum) is amended as follows.

(2) In section 9A (the principal objective and the strategy), in subsection (1)(b), after paragraph (iv) insert—

"(v) owners of relevant offshore installations."

(3) In section 9C (carrying out of certain petroleum industry activities)—

(a) omit subsection (3), and

(b) after subsection (4) insert—

"(5) A person who is the owner of—

(a) a relevant offshore installation, or

(b) upstream petroleum infrastructure,

must act in accordance with the current strategy or strategies when planning and carrying out the activities mentioned in subsection (6).

(6) Those activities are—

(a) the person's activities as the owner of the installation or infrastructure (including the development, construction, deployment and use of the infrastructure or installation);

(b) the abandonment or decommissioning of the installation or infrastructure.

(7) For the purposes of subsection (5), planning the activities mentioned in subsection (6)(b) includes the preliminary stage of—

(a) deciding whether or when to proceed with the proposed abandonment or decommissioning, and

(b) considering alternative measures to abandonment or decommissioning such as re-use or preservation."

(4) After section 9H insert—

"9HA"Relevant offshore installations" and their owners

(1) For the purposes of this Part an offshore installation is a relevant offshore installation if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—

(a) the territorial sea adjacent to Great Britain, or

(b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

(3) In this Part "owner", in relation to a relevant offshore installation, means—

(a) a person in whom the installation is vested, and

(b) a lessee and any person occupying or controlling the installation."

(5) In section 9I (other definitions), at the appropriate place insert—

""offshore installation" has the same meaning as in Part 4 (see section 44);";

""owner", in relation to a relevant offshore installation, has the meaning given in section 9HA;";

""relevant offshore installation" has the meaning given in section 9HA;";

""submarine pipeline" has the meaning given in section 45;"."

75: After Clause 62, insert the following new Clause—

"Part 1A of the Petroleum Act 1998: Northern Ireland

(1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum), as amended by this Act, extends to Northern Ireland (as well as to England and Wales and Scotland).

(2) In that Act, for section 9H substitute—

"9H"Upstream petroleum infrastructure" and its owners

(1) In this Part "upstream petroleum infrastructure" means anything that for the purposes of section 82(1) of the Energy Act 2011 is—

(a) a relevant upstream petroleum pipeline,

(b) a relevant oil processing facility, or

(c) a relevant gas processing facility,

if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—

(a) the territorial sea adjacent to Great Britain, or

(b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

(3) In this Part "owner", in relation to upstream petroleum infrastructure, means—

(a) a person in whom the pipeline or facility is vested;

(b) a lessee and any person occupying or controlling the pipeline or facility; and

(c) any person who has the right to have things conveyed by the pipeline or processed by the facility."

76: After Clause 62, insert the following new Clause—

"International oil and gas agreements: information exchange

(1) This section applies where—

(a) there is a treaty or agreement in force between the government of the United Kingdom and the government of a territory outside the United Kingdom ("the overseas territory") concerning cooperation in relation to oil and gas activities, and

(b) the treaty or agreement includes arrangements for the exchange of information between the two governments ("information exchange arrangements").

(2) If it appears to the Secretary of State that adequate safeguards are in place, information held by the Secretary of State may be disclosed so far as the Secretary of State considers necessary for the purpose of giving effect to the treaty or agreement in question.

(3) If it appears to the OGA that adequate safeguards are in place, information held by the OGA may be disclosed so far as the OGA considers necessary for the purpose of giving effect to the treaty or agreement in question.

(4) For the purposes of this section adequate safeguards are in place if the information exchange arrangements and the law in force in the overseas territory are such as to ensure that information disclosed to the government of the overseas territory under this section may be disclosed by that government only—

(a) with the consent of the government of the United Kingdom, or

(b) so far as necessary for the purpose of preparing and publishing reports of a general nature.

(5) References in this section to the OGA are to the OGA acting as a representative of the government of the United Kingdom for the purposes of the agreement with the overseas territory."

Amendments 73 to 76 agreed.

Amendments 77 and 78 not moved.

Amendment 78A (in substitution for Amendment 78) not moved.

Consideration on Report adjourned.

House adjourned at 9.15 pm.

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