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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Wednesday 7 February 2018

3 pm

Prayers—read by the Lord Bishop of St Albans.

Abattoirs: Non-stun Slaughter
Question

3.06 pm

Asked by ***Lord Trees***

To ask Her Majesty's Government what measures they are taking to minimise the number of animals slaughtered without stunning in abattoirs in the United Kingdom.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, EU and domestic legislation require all animals to be stunned before slaughter, with a long-standing exception for Jewish and Muslim communities to eat meat prepared in accordance with their religious beliefs. We recently asked the Food Standards Agency to conduct a survey of slaughterhouses that included looking at different slaughter methods. The survey's results should help to ascertain the volumes of meat arising from different slaughter methods.

Lord Trees (CB): I thank the Minister for his reply and congratulate the Government on the number of measures they have announced recently to improve animal welfare in this country. They are progressive and very welcome. However, on non-stunned slaughter, I am afraid we have not made much progress. The latest Food Standards Agency figures to which the noble Lord alluded show that the number of sheep slaughtered without stunning in Britain in 2017 doubled in the six years from 2011 to over 3 million sheep. That is 3 million sheep that had their throats cut without being rendered unconscious first. Does the Minister agree that, in that aspect of animal welfare, we are going backwards?

Lord Gardiner of Kimble: My Lords, that is why it is important that we first look at the results of the 2018 survey. The last full survey was in 2013, so it is important that we hear about the issue again. The Government would prefer all animals to be stunned before slaughter, but we have been very clear over a long period—since the 1933 Act—that we respect the rights of the Jewish and Muslim communities to consume meat in accordance with their religious practices. However, we expect our announcement on CCTV, affecting all slaughterhouses, to be an advance in animal welfare.

Lord Rooker (Lab): Does the Minister realise that there is a partial solution to this, particularly in respect of the Muslim community? All New Zealand lamb that arrives in this country is halal and all the animals were stunned prior to slaughter. If it is good enough to have a standard in New Zealand that classifies as halal, why do we put up with a local decision, which is not an international rule? There is a perfectly good arrangement from the other side of the world, which has led so much in food safety and farming practices. Why can we not adopt the New Zealand practices in respect of the Muslim community?

Lord Gardiner of Kimble: My Lords, my understanding is that there are different requirements in different parts of the Muslim community. The noble Lord, with all his experience, is absolutely right, but certain parts of the Muslim community are prepared to have stunned halal meat and other parts are not. I return to the fact that we have this long-standing reasoning behind permitting the communities to eat meat in that way. We certainly want to enhance animal welfare, and that is why the official veterinarians must be in every part of the slaughterhouse.

Viscount Hailsham (Con): My Lords, may I support the position adopted by my noble friend? It is very important to carry the Muslim and Jewish communities with us and I hope they will be tightly involved in any consultations that may take place.

Lord Gardiner of Kimble: My Lords, as I say, we do not intend to move away from this long-standing right, but we want, with the other measures that we are considering, to ensure that all slaughtermen hold a certificate of competence, which is clearly essential, and that the official veterinarians can see from the video footage that everything done in all slaughterhouses is carried out in a proper manner. We certainly want to advance animal welfare in all slaughterhouses.

Lord Stoneham of Droxford (LD): My Lords, the growth figures that the noble Lord, Lord Trees, talked about are in excess of what is needed to meet religious needs for the slaughtering of animals without stunning. We have been leaders in the European Union on animal welfare, so have the Government looked at the German system of quotas as a way of bringing the numbers down, and if not, why not?

Lord Gardiner of Kimble: My Lords, we should get the figures in March and we will want to look at the survey, which will be put in the public domain at some point this year. It is also important to say that we want to see what proportion of this meat is going for export. We want to look at where the livestock is sourced and the market distribution, including exports. Once we know that, we will be in a position to give this issue the consideration it deserves.

Lord Cunningham of Felling (Lab): My Lords, is it not the case, as the noble Lord, Lord Trees, accurately pointed out, that the number of animals, in this case sheep, being killed without stunning is rising dramatically? I am sure that is not mirrored by a rise in the population who demand halal meat. What is the Minister's explanation for the number of animals having risen so sharply in the UK?

Lord Gardiner of Kimble: The noble Lord has raised a number of points. I understand that people in the Muslim community eat more sheepmeat than the rest of the British population and that the number of Muslims who are looking to have non-stunned halal meat has also increased because of enhanced religious observance. As I say, with this survey we want to look at the reasons behind this. Obviously, our intention is to allow an exemption for religious communities, but not that this meat should go into the wider market.

Baroness Masham of Ilton (CB): My Lords, is the Minister aware of the horrifically cruel treatment of sheep in a slaughterhouse near Thirsk? The animals were not stunned, rather they were kicked and mutilated; what they went through is really horrifying. The men involved will be tried in court in Leeds very soon. Can the Minister say when CCTV will be operational in all slaughterhouses?

Lord Gardiner of Kimble: My Lords, we intend to lay legislation on this matter very shortly. I wish I could give the noble Baroness and the House a precise date, but we want to bring it forward as soon as possible. CCTV will be installed in all areas where live animals are present. We want animals to have a good life and a respectful end to their lives. I think this will advance that.

Lord Hodgson of Astley Abbotts (Con): My Lords, of course we must wholeheartedly and unreservedly respect freedom of religious belief, but there are among us those who would prefer not to eat meat that has been slaughtered using a mechanism that we believe causes unnecessary suffering. Will the Government now grasp this nettle and arrange for a labelling mechanism so that those of us who do not believe in following this practice have the freedom of our own belief?

Lord Gardiner of Kimble: My Lords, the labelling issue is very important. We think it is absolutely essential that everyone can make an informed choice. We will be considering this issue in the context of our departure from the EU. I also say to my noble friend that farm assurance schemes, such as Red Tractor and the RSPCA Assured scheme, require stunned slaughter. That is an important feature.

Baroness Jones of Whitchurch (Lab): My Lords, we all welcome the introduction of compulsory CCTV in slaughterhouses, which should assist with proper welfare standards. The noble Lord will know, however, that the recent incident at 2 Sisters came to light not because of the CCTV but because of undercover reporters. Unless the Food Standards Agency has the proper resources to look at the footage, we will get no further forward. Will the Minister explain what extra resources will be put in place so that the CCTV footage is used and not just sitting there in a dead camera?

Lord Gardiner of Kimble: My Lords, it is very important that the official veterinarian takes his or her duties extremely seriously. That is why the footage will need to be stored by the slaughterhouse operators for 90 days. The official veterinarians will have access to the CCTV systems and their recorded images. It is important that CCTV recording may be used as evidence. On resources, the official veterinarians, who are essential to this, have their duties. There have to be official veterinarians in slaughterhouses. As I said, this will be an important part of the work of enhancing animal welfare at the end of animals' lives.

NHS: Winter Crisis

Question

3.16 pm

Asked by ***Lord Clark of Windermere***

To ask Her Majesty's Government what assessment they have made of the effectiveness of their planning for the winter crisis in the National Health Service.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, planning for winter started earlier than ever before to ensure that robust plans were in place to support NHS delivery during the challenging winter months. Despite the NHS being extremely busy and flu rates being at the highest level for years, hard-working staff treated more than 55,000 people within four hours every day in December—more than 1,200 more than last year. NHS England and NHS Improvement will publish their review of winter by summer 2018.

Lord Clark of Windermere (Lab): I thank the Minister for his reply. As he knows, NHS spending has risen by an average of 4% each year in real terms since its inception in 1948. Since this Government took over in 2010, that 4% increase has fallen to an average of between 1% and 1.5% in real terms. Can the Government not accept that some of their meanness is one of the major causes for the crisis the NHS finds itself in?

Lord O'Shaughnessy: I totally reject the accusation of meanness. If noble Lords look at the spending on the NHS, not only has it gone up in real terms every year while a massive fiscal retrenchment has had to take place to deal with £150 billion of borrowing bequeathed by the previous Government, but it now accounts for the highest percentage share of public spending that has ever been in place. We have found the money in difficult circumstances. We all agree that more is needed. More was found in the Budget; I am sure more will be found in the future.

Baroness Brinton (LD): My Lords, in 2015 the King's Fund warned the Government that the NHS would experience a "full-blown crisis in care" if the Government did not act early enough. That crisis has now materialised, with the additional funding announced in November's Budget having arrived too late for hospitals struggling to cope with the accepted increase in demand from patients at that time of year. If the planning is to be published in July, when will the announcement about money to support that planning also be announced?

Lord O'Shaughnessy: As the noble Baroness knows, last year we had two significant spending announcements —there were two Budgets—in the March Budget on social care and in the November Budget for NHS funding, with billions extra being put into the service to meet very quickly rising demand. The review that will come out in summer will be a retrospective review of planning and the success of planning for winter. There will also be important lessons to be learned from it I am sure.

Baroness Finlay of Llandaff (CB): Are the Government planning to ask NHS England to review the number of beds available, given that staff at the moment are starting shift after shift with no beds available and having patients who need IV therapy or even ventilation in their departments who cannot possibly be sent home? Staff morale is inevitably being undermined because they just do not know where they can put these patients.

Lord O'Shaughnessy: The noble Baroness is quite right to highlight the issue of bed occupancy; it is very high. The service managed to get it down below 85% before Christmas but inevitably it has risen since then. There is a big improvement in delayed transfers of care; we need that to continue to happen, and it was welcome that the Secretary of State for local government announced more funding for social care so that we can increase those transfers into social care and free up space in hospitals.

Baroness Thornton (Lab): My Lords, following the noble Baroness's question about bed occupancy, it is absolutely true that in 30 of the last 70 days in the winter period occupancy has been above 95%, which is dangerous. Some hospitals are at 100%. Was that part of the winter plan that the Minister assures us was timely and thorough? Will he accept that the winter plans have now been compromised in the light of pressure on beds, lack of staff and the fact that at least 23 trusts are now on black alert, which means that they are under very severe pressure?

Lord O'Shaughnessy: I agree with the noble Baroness that bed occupancy is higher than we want it to be and in some hospitals it is far too high. The question, of course, is what we do about that. It necessitated the difficult decision, for which the Prime Minister apologised, to cancel non-urgent elective surgery. Happily, that has not been repeated and rolled forward into February. We think and hope that the situation with flu, in particular, has stabilised and that that will start to relieve the pressure. I absolutely understand the hard work that staff are having to put in under tremendous pressure and I know that we all appreciate that.

Baroness Altmann (Con): My Lords, I congratulate the Government on finding extra money for the National Health Service but does my noble friend agree that just putting more money in is not going to solve the crisis? Until we manage to sort out the social care system and the care of elderly people in our population the crisis will continue. We need convalescent places for older people who do not need to be in hospital in order to free up beds. I would also welcome an update on the thinking on integration between health and social care, which I so much endorse.

Lord O'Shaughnessy: My noble friend is absolutely right to highlight integration. I point to two things, one that is happening now and one for the long term. In the short term, the better care fund is a pot to which local authorities and the NHS contribute and it has more money than ever before, precisely to make sure that that interface between NHS care and social care is as good as possible and people can be discharged safely home as soon as possible, which is of course what they want. We also know that we are going to have a social care Green Paper this summer. It is a really important moment; we know how many missed opportunities there have been in the past to reform care in this area and I know that noble Lords are really keen to contribute to this. I urge them to do so and in that way we can build a consensus for change.

Lord Bassam of Brighton (Lab): My Lords, the Minister says there are billions extra for the health service, but the East Sussex Healthcare Trust has just announced a £21 million increase in its deficit, making it £57 million for the rest of this financial year. This is now 14% of its total budget. The finance director says that it is necessary to achieve clinical stability for this ambitious deficit reduction. Is this not just a euphemism for cuts to services? What advice can the Minister give to patients using hospitals in Hastings and Eastbourne who are waiting for treatment?

Lord O'Shaughnessy: I am not familiar with the specific circumstances around the hospitals that the noble Lord has pointed to, but of course we know that there is huge pressure on services. If you look at the performance data, the NHS is seeing more people in A&E, more people being diagnosed, more people being referred to treatment, and that is why additional funding went into the budget, not just for this winter but for the next two years as well.

Plastic: Recycling

Question

3.24 pm

Asked by ***Baroness Neville-Rolfe***

To ask Her Majesty's Government what action they are taking to reduce the use of plastic and to ensure that the maximum amount of plastic can be recycled.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, the Government have banned microbeads in cosmetics and taken 9 billion plastic carrier bags out of circulation with the 5p charge. More needs to be done and we will be taking an ambitious approach. My right honourable friend Michael Gove has recently set out in a four-point plan how we will reduce the use of plastic and ensure that where plastic is used it is easier for households to recycle.

Baroness Neville-Rolfe (Con): My Lords, we need a sense of urgency, given the scale of the challenge on plastic. We need dynamic and radical ideas—as, I think, are promised in the new strategy—that need to cover research, alternatives to plastic, and recycling, where, I am afraid, we still await a single system that consumers can understand. Will the Minister kindly ensure that his energetic Secretary of State focuses on this—busy though I know he is in supporting the Prime Minister on other fronts?

Lord Gardiner of Kimble: My Lords, I experience day in, day out the energy of my right honourable friend and we are very grateful for it. Clearly it is important that we undertake research. We want plastic to be reusable and recyclable and for recycling to be understood. That is why, in working with BEIS, Innovate UK, Research Councils and industry, we need to bring forward bids for the Industrial Strategy Challenge Fund so that we can develop more sustainable materials with a lower environmental impact. We are also working, within WRAP's framework, to ensure greater consistency. Yes, we want to have a common set of materials that are recycled. Working with local authorities we have already made some advances and there are some very good examples of where councils have increased their recycling, some by over 14% in one year—so it can be done.

Lord Teverson (LD): My Lords, my local authority, like many others, recycles plastic but not black plastic, which is a major proportion of all plastic. WRAP, the excellent organisation which the Minister has already referred to, has found a solution to this by changing the pigment that puts in the black colour. As an immediate action, following up the noble Baroness's reference to energy, will the Government insist that that pigment is changed so that that proportion of plastic can be recycled as well?

Lord Gardiner of Kimble: My Lords, industry has certainly been working on this, as has WRAP. Indeed, industry has committed to bringing in by the end of this year the solutions that will enable the sustainable recycling of all black plastic packaging. Waitrose, for example, has decided not to have black plastic but to have other plastic—so industry across the piece is working on this.

The Lord Bishop of St Albans: My Lords, last year the Environmental Audit Committee recommended a legislated deposit return scheme for plastic drink bottles, which has proved extraordinarily successful in the US, Norway and Germany in improving collection rates and reducing littering. When do the Government plan to do the same in this country?

Lord Gardiner of Kimble: My Lords, the right reverend Prelate mentioned litter. One of the problems we face with plastic is that too many of us are dropping plastic, in the terrestrial and marine environments. The call for evidence on the deposit return scheme closed in November. The working group is due to provide advice to Ministers on potential incentives for drink containers early this year. We are—as I say, with an ambitious Secretary of State—looking for progress.

Lord Anderson of Swansea (Lab): My Lords, there has been a common theme among Conservative spokespersons to criticise the performance of the Welsh Assembly Government, and they have recently had to apologise for that. Is this not an area where perhaps those same Conservative spokespersons should be asked to praise the Welsh Assembly Government, who are pioneers in this field? The Government have been rather tardy in following them, so there has been a great loss during the years that the Government failed to follow the lead of the Welsh Assembly Government.

Lord Gardiner of Kimble: My Lords, I am a unionist and therefore, wherever things are going well, wherever it is in the country, I am delighted. I have looked into this. In Wales a lot of the recycling percentage—it comes down to weight—is down to the fact that it has done far more food and garden waste recycling. That is why it has a higher recycling rate: 58% compared with 44.9% in England. I am very pleased that there is success in Wales on that. We certainly want to improve that, but there are plenty of local authorities in England with recycling rates of over 60% and I congratulate all local authorities that are recycling, whether it is plastic, food or other materials.

Viscount Ridley (Con): My Lords, with respect to marine pollution, will my noble friend also take a look at the issue of PCBs—polychlorinated biphenyls—and in particular at the work of Paul Jepson of the Zoological Society of London? He concluded that, although PCBs were banned in the 1980s, they are still getting into European seas and are responsible for the fact that the resident pod of killer whales has not been able to have babies around the British Isles for many years.

Lord Gardiner of Kimble: My Lords, I take that very seriously indeed. It is fair to say in marine and across the piece that international collaboration is key. Whether it is the G7, the G20, the UN, OSPAR—

A noble Lord: The European Union.

Lord Gardiner of Kimble: Of course, my Lords. We are in the world leadership on this issue. Noble Lords on the opposite side do not seem to like the fact that our country does rather well at a number of things, and it would be much better if that were appreciated in the same way that I am delighted when Wales, Scotland or Northern Ireland has a success.

Brexit: EU Customs Union

Question

3.30 pm

Asked by ***Baroness Ludford***

To ask Her Majesty's Government what future relationship they plan between the United Kingdom and the European Union Customs Union.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, the Government made clear in the Prime Minister's speech

in Florence and subsequently that we will be leaving the EU customs union. In the Government's customs future partnership paper published last August we put forward two possible approaches to the UK's future customs relationship with the EU. The specific approach we take will of course be subject to the outcome of the negotiations.

Baroness Ludford (LD): My Lords, I am grateful for the Minister's certainty, but it does not seem to be shared by all members of the Cabinet who are speaking out. Indeed, when on Friday Mr Olly Robbins gives EU negotiators a,

"UK update on the future relationship",

as the agenda foresees, I suspect that all he will really be able to tell them will be, "My political bosses are incapable of making up their minds. Can you please tell us what to do?"

Lord Callanan: Was there a question there? I am sure that, if Mr Robbins gives any kind of update, being the good, efficient civil servant that he is, he will want to reflect government policy.

Lord Forsyth of Drumlean (Con): My Lords, will my noble friend confirm that when we leave the customs union we will be able to end the scandalous discrimination against developing countries and others where there are very high tariffs on food, clothing, textiles and other goods? Can he give an example of some of the high tariffs that we will be able to avoid, thus reducing the costs to British consumers?

Lord Callanan: I thank my noble friend for his question. He is, of course, right. Leaving the EU offers us the opportunity to have our own independent trade policy not contracted out to the European Commission. There are many opportunities that will present themselves, and eliminating some of the extremely high tariffs on agricultural products is one of them.

Baroness Hayter of Kentish Town (Lab): My Lords, in an open letter this morning the British Chamber of Commerce has almost begged the Government to spell out what they actually want from the relationship with the EU. It said quite bluntly that those who are elected to govern now have to make a choice—it is make your mind up time. Will the Minister send a little memo to the Brexit sub-committee which is meeting today to urge it, for the sake of the country's economy and not just for party unity, to look at jobs first and decide that whatever is best to get jobs and the economy going will be what drives the negotiations?

Lord Callanan: I totally agree with the noble Baroness that of course we should have regard to jobs created in the economy. No doubt she will be delighted to know that last week we announced the lowest unemployment totals in the UK for 42 years. I am sure that the Labour Party will want to join us in welcoming that record.

Lord Hannay of Chiswick (CB): My Lords, the Minister said, correctly, that in August or September the Government referred to two options. They did not describe them; they just referred to them. I think that one of them was called "blue sky thinking by the Secretary of State for DExEU". With all the resources of the British Government behind them, what have the Government done to fill out those two options since then? Will the Minister perhaps share that information with the House?

Lord Callanan: As the noble Lord is aware, we published a future partnership paper and put forward two proposed options for the UK's future customs relationship. The first is a highly streamlined customs arrangement consisting of negotiated and unilateral facilitations, aiming to simplify requirements on UK-EU trade. The second is a new customs partnership. They are both comprehensive options that will be studied.

Lord Tomlinson (Lab): My Lords, if the Government have made their position so clear, why is not only the Cabinet meeting but the sub-committee on Brexit meeting twice this week in order to determine among themselves what government policy is?

Lord Callanan: The noble Lord will be aware that the Cabinet meets once a week and that sub-committees regularly consider all aspects of government policy. This is a particularly important aspect of government policy, so we will want to go through all the options in great detail

Lord Pearson of Rannoch (UKIP): My Lords, are the Government aware of the Civitas research which shows that, if the Eurocrats force us to trade on World Trade Organization terms, EU exporters will pay us tariffs of some £13 billion a year, while ours will pay them only some £5 billion a year—a nice little profit to us of some £8 billion? So would it not be generous of us to offer to leave our free trade just as it is, while taking back our law, borders, fishing, agriculture and sovereignty generally?

Lord Callanan: I am sure that the noble Lord is a believer in free trade. Nobody on either side wants to get into paying tariffs. We want a bold and ambitious economic partnership, as the Prime Minister has made clear.

Lord Wallace of Saltaire (LD): My Lords, will the Minister accept that some of us listening to the Government's debate are getting a little confused about what the exact distinctions are between "the" customs union, "a" customs union and a customs "arrangement"? Since Ministers use the terms "a customs union" and "a customs arrangement" regularly to describe what we want, could the Minister help us by explaining exactly what the Government mean by them?

Lord Callanan: I can certainly agree with the noble Lord that the Liberal Democrats are confused, if that is what he is asking me to do. The term "customs union", as he will know, has a specific legal formulation.

Lord Low of Dalston (CB): My Lords, how is regulatory alignment between the Irish Republic and Northern Ireland to be maintained if we leave the customs union?

Lord Callanan: We are currently formulating the legal agreement implementing the phase 1 agreement, where we, alongside the EU and the Irish Government, committed to having no hard border in Northern Ireland. All of the options will be considered in the second phase, but we are committed to that option.

Haulage Permits and Trailer Registration Bill [HL]

First Reading

3.38 pm

A Bill to make provision about the international transport of goods by road; to make provision about the registration of trailers; and for connected purposes.

The Bill was introduced by Baroness Sugg, read a first time and ordered to be printed.

European Union (Withdrawal) Bill

Order of Consideration Motion

3.38 pm

Moved by ***Lord Callanan***

That it be an instruction to the Committee of the Whole House to which the European Union (Withdrawal) Bill has been committed that they consider the bill in the following order:

Clauses 1 to 5, Schedule 1, Clauses 6 to 9, Clause 16, Schedule 7, Clause 17, Clause 10, Schedule 2, Clause 11, Schedule 3, Clause 14, Schedule 6, Clause 15, Clause 12, Schedule 4, Clause 13, Schedule 5, Clauses 18 and 19, Schedules 8 and 9, Title.

Motion agreed.

Asset Freezing (Compensation) Bill [HL]

Third Reading

3.39 pm

Bill passed and sent to the Commons.

Policing and Crime Act 2017 (Consequential Amendments) Regulations 2018

Motion to Approve

3.39 pm

Moved by ***Baroness Williams of Trafford***

That the draft Regulations laid before the House on 11 January be approved.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I am sure that noble Lords will recall with fondness the debates we had on the Policing and Crime Bill last Session. The Bill received Royal Assent a little over a year ago, on 31 January 2017, and many of its provisions are already in force, with a number of further measures due to be implemented on 1 March or 1 April. These draft regulations support the implementation of the Act.

Noble Lords will recall that the Act contains several important reforms, a number of which are relevant to these draft regulations. Part 1 of the Act enhances the accountability arrangements for fire and rescue services in England. In London, this means abolishing the London Fire and Emergency Planning Authority and giving the Mayor of London direct responsibility for the fire and rescue service in the capital, with operational responsibility for the service being vested in the London Fire Commissioner. In the rest of England, the Act enables directly elected police and crime commissioners to take on the functions of fire and rescue authorities where a local case is made.

Part 2 of the Act strengthens public confidence and trust in the police by reforming and simplifying the police complaints and disciplinary systems. Part 3 enables chief constables to make more effective use of police staff and volunteers, freeing up police officers to focus on those tasks that need the core powers of a constable. Part 4 introduced important reforms to pre-charge bail, particularly to ensure that the arrangements for police bail properly balance the rights of individuals and the need to protect the wider public. Part 4 also closed gaps in police cross-border arrest powers, enabling a constable in one UK jurisdiction to arrest a person wanted in another jurisdiction without first having to obtain a warrant.

The 2017 Act gave effect to those reforms by amending key policing and fire enactments, including the Police Reform Act 2002 and the Fire and Rescue Services Act 2004. However, as is often the way, substantial consequential amendments to other enactments were also needed. While many of these were made in the Policing and Crime Act itself, we anticipated that other necessary consequential amendments might come to light as part of the implementation process. Accordingly, Section 180 of the Act includes a standard power to make such consequential amendments, and these draft regulations derive from that power.

Many—indeed, most—of the consequential amendments made by these draft regulations are technical in nature. They are described in detail in the accompanying Explanatory Memorandum so I will confine my remarks to the substantive provisions. First, as I have said, the 2017 Act alters the governance arrangements for fire and rescue in London. From April this year the London Fire and Emergency Planning Authority will be abolished, with day-to-day responsibility for the fire and rescue service transferring to the new London Fire Commissioner. The commissioner will be directly accountable to the Mayor of London, supported by a new deputy mayor for fire. This change has the full backing of the current mayor.

It is expected that many of those aspiring to be appointed as London Fire Commissioner will be members of the existing firefighters' pension scheme. A successful candidate would, quite understandably, want to retain their membership of the scheme upon their appointment. Clearly, we should not put artificial barriers in the way

of experienced senior firefighters applying for this post, thereby limiting the pool of suitable candidates. The mayor, for the time being, should be able to appoint the best available candidate to the office of London Fire Commissioner. Regulations 2 and 10 of the draft regulations therefore make the necessary amendments to the Fire Services Act 1947 and the Fire and Rescue Services Act 2004 to allow for continuity of membership of the firefighters' pension scheme where an existing member of the scheme is appointed commissioner.

Outside London, the 2017 Act provided for any change to the governance of fire and rescue services to be locally determined. Noble Lords may be aware that in October last year the Police and Crime Commissioner for Essex, Roger Hirst, became the Police, Fire and Crime Commissioner for Essex. We have also received proposals from the PCCs in Cambridgeshire, Hertfordshire, Northamptonshire, North Yorkshire, Staffordshire and West Mercia to take on the functions of the fire and rescue authorities in their areas. We are currently considering these proposals and aim to make an announcement soon.

This reform provides the backdrop for the consequential amendments made by the schedule to the draft regulations. Fire and rescue authorities are subject to a wide range of local government and other legislation that governs how they operate. The Policing and Crime Act itself made a good many consequential amendments to modify such legislation to ensure that it could continue to operate where the functions of a fire and rescue authority were taken on by a PCC. We have identified a small number of further enactments which also need to be amended, in particular the Local Government Finance Act 1988, which makes provision for the financial administration of fire and rescue authorities.

3.45 pm

Lastly, I should explain the amendment to the Contempt of Court Act 1981 made by Regulation 4. This is consequential upon the reforms to pre-charge bail which came into force last April. These reforms addressed the real concern that the then arrangements for police bail could result in some individuals spending a significant period of time subject to pre-charge bail, only for them not to be charged or, if charged, found not guilty. Such a prolonged state of uncertainty was undoubtedly extremely stressful for the individuals concerned, particularly if they were subjected to demanding bail conditions.

The Act addressed such concerns by, among other things, creating a presumption in favour of release without bail and setting clear time limits. Where pre-charge bail lasts longer than 28 days, the police must demonstrate that it is both necessary and proportionate. In the 10 months in which the new regime has been operating, we have already seen a significant reduction in the number of individuals subject to pre-charge bail.

Among other things, the Contempt of Court Act 1981 is designed to ensure that a defendant's right to a fair trial is not prejudiced by adverse publicity during the period of the police investigation and pre-trial. It places restrictions on the publication of potentially prejudicial material which apply while an investigation is, in the language of the 1981 Act, "active". This is known as the strict liability rule. The draft regulations extend the definition of "active" so that the protection afforded by the strict liability rule applies in a case where a person is released without bail while a police investigation continues.

I reassure the House that we are not aware of any case where the lack of protection from the strict liability rule under the reformed police bail system has been prejudicial to the case. Even where the strict liability rule does not apply, publications can still be convicted of contempt where it can be shown that there was intent to prejudice a case. Regulation 4 simply returns the position on contempt to where it was before the reforms were made.

The Policing and Crime Act is transformational legislation helping to drive improved efficiency, effectiveness and accountability of policing and the fire service. As I have said, many of its provisions are already in force and we are on course to implement further provisions this spring. The draft regulations support the implementation of the Act already approved by your Lordships' House in the previous Parliament, and I commend them to the House.

Lord Paddick (LD): My Lords, I thank the Minister for introducing the statutory instrument. The House will forgive me, but my body has decided to go sick two days early, so if I do not make much sense, that probably accounts for it.

The complexity involved in the instrument is staggering. It involves 12 pieces of primary legislation and has 32 footnotes. As far as I can see, the instrument is reasonably innocuous, but I am concerned that people will find it impenetrable. I engaged my noble friend Lady Hamwee to help me to interpret it, and she assured me that if she had eight hours uninterrupted, she could probably be more certain about the impact. With the Brexit legislation to come, when similar statutory instruments may come in a blizzard to this House, the House will be concerned about its ability properly to scrutinise them.

I do not want to go over the discussions we had during the passing of the Act, but I will refer to what the honourable Member for Sheffield, Heeley, said yesterday when these matters were discussed in the other place around the limitations on pre-charge bail. The concern, which we share, is that now that a suspect is likely to be released pending further investigation but not on bail, the suspicion hangs over that individual and they never know whether they will be arrested again, whereas when they were released on pre-charge bail, there was a specific time when that person would come back to the police station. There was a limit to the uncertainty.

We not only argued from my professional experience but quoted evidence from the Police Superintendents' Association and from the professional bodies in policing that the 28-day limit was not sufficient, bearing in mind the sorts of inquiries that have to be done now in terms of investigating computers, mobile phones and so forth. Can the Minister give us some reassurance about whether, contrary to what the law change was supposed to achieve—that is, to bring investigations quickly to a conclusion—this change may have the opposite effect?

Lord Kennedy of Southwark (Lab Co-op): My Lords, first, I draw the attention of the House to my registered interest as a councillor in the London Borough of Lewisham and as a vice-president of the Local Government Association.

The regulations before the House this afternoon make a number of changes as a consequence of the Policing and Crime Act 2017 coming into force. These changes, as we have heard, cover reform of the governance of fire and rescue authorities in England, including the abolition of the London Fire and Emergency Planning Authority, known as LFEPA. The regulations also makes changes to the police disciplinary framework and pre-charge bail. They extend the powers of police civilian staff and volunteers and strengthen the powers of cross-border arrest.

Dealing with LFEPA first, I am happy to support the proposal to abolish it and replace it with the London Fire Commissioner. It will then be for the Mayor of London to appoint a deputy mayor for fire as he puts in place the governance structure that is needed to deliver these vital services for Londoners. The governance structure being abolished was set out in the Greater London Authority Act 1999, which established the London Fire and Emergency Planning Authority. It is important to put on record our thanks to all the members of this body, past and present, for the service they have given over the last 17 and a half years of its existence.

It is of great credit to the authority, and the firefighters and other staff who work for it, that during its existence, with an increasing population in London, the number of dwelling fires has reduced. This reduction is attributed to the success of community safety initiatives and the increase in smoke-alarm ownership. One of the first actions of the LFEPA was the introduction of the first community safety strategy, approved in September 2000. This strategy changed the focus of the London Fire Brigade from being a mainly reactive emergency response service to a proactive service with fire prevention at the core of its activities. Since then, London has enjoyed a long period with the number of fires falling. In 2000, there were around 50,000 fires every year in London, which is now down to around 20,000.

I pay particular tribute to the outgoing chair of the authority, my good friend Dr Fiona Twycross AM, who has led the authority for the last year and has met and delivered on many challenges in that time, but who also, in the previous four years, led the robust opposition to the cuts in the fire service proposed by the previous Mayor of London, Boris Johnson. With the election of Sadiq Khan as Mayor of London, we have seen a much more pragmatic and sensible attitude to the fire service in London, and that is very welcome.

The regulations also make various consequential amendments, inserting the London Fire Commissioner where LFEPA previously had statutory responsibility, and I am content with those proposals.

The regulations make further amendments to governance arrangements outside London. If possible, can the Minister say a little more about how many PCCs are taking over the control of the fire and rescue services? I know she mentioned a number of them, but how far have they gone to take over these services? I know that the paper makes reference to Essex—and again we put on record our thanks to members of all those fire authorities that will be abolished as a consequence of PCCs taking over responsibility for fire and rescue services. These are challenging times, and we should thank those who have served on those authorities.

The amendments to the Contempt of Court Act 1981 give individuals the protections that they would have received to ensure that they receive a fair trial, if the matter comes to trial, by ensuring that the course of justice is not impeded by political prejudice or adverse publicity. I recall our debates on this issue when the Act was passing through Parliament. I support the changes today, but it would be good to know from the Minister how many fewer people would need this protection if the Government had listened to the police and others, including Members of this noble House, who suggested that 56 days rather than 28 days was a more realistic timescale for releasing individuals on police bail, as the machinery of investigations and things like forensics just cannot complete their work in a majority of cases within 28 days. That leaves people released while under police investigation, not police bail, and potentially at risk of action which is prejudicial to them being taken against them. No one wants to see anyone on police bail for extended periods, but if we have just substituted being on police bail with being under police investigation, it begs the question what has been achieved here.

The other provisions in the regulations make fairly minor amendments in provisions concerning disciplinary procedures for former members of police forces and former special constables, the powers of police civilian staff and volunteers and the closing of a gap in the cross-border powers of arrest, which I am content to agree to. With those points that I have raised, I am content with the regulations today.

Lord Blair of Boughton (CB): Before the Minister steps up, I would like to echo the comments of the noble Lords, Lord Kennedy and Lord Paddick, about the 28-day rule. Would the Minister be prepared to agree that the Home Office or the inspectorate should examine in a year's time, after the enactment of all this, as to whether this limit works? Intuitively, it does not; intuitively, certainly when we look at the stuff that we have heard recently about rape cases collapsing because the material had not been looked at, 28 days is almost an impossibility in a serious case, if there was only one case. We know that rape investigators in London are carrying 25 cases simultaneously, which means that they have to deal with all this in one day, effectively. There is something very honourable in the attempt to keep people off police bail, but, intuitively, this may go absolutely wrong. I would like the Minister to agree to seek agreement from the Home Office or HMIC that this matter be reported back to this House in 12 months' time as to the effects of this well-meant provision.

Baroness Williams of Trafford: My Lords, I thank noble Lords for their contributions to this debate, and wish the noble Lord, Lord Paddick, well. I hope that he does not spend the whole of the Recess in his sick-bed.

I am grateful for the support for the draft regulations, although it is fair to say that some of the debate has touched not on the provisions but on some of the substantive reforms made by the Policing and Crime Act. I welcome the fact that the noble Lord, Lord Kennedy, has reiterated the Opposition's support for the establishment of the London Fire Commissioner. The current governance arrangements in London can lead to confusion, with the mayor being accountable for setting the annual budget but decisions relating to fire and rescue provision being determined by the London Fire and Emergency Planning Authority. Previously, this has led to a breakdown in decision-making, with the previous mayor having to repeatedly use his direction-making powers to resolve conflicts, which is time consuming and costly. That was clarified by the noble Lord's comments. The changes in the 2017 Act will strengthen democratic accountability by giving the directly elected mayor greater responsibility for fire and, crucially, streamlining decision-making to assist in making future demands on fire and rescue services in London.

The mayor, both now and in the future, should be able to appoint the best available candidate to the office of London Fire Commissioner. The changes made in the draft regulations to firefighters' pension arrangements will ensure that this is the case. Indeed, failure to make the changes provided for in the draft regulations is likely significantly to reduce the pool of suitably qualified candidates for the post in the future.

4 pm

The noble Lord, Lord Kennedy, has reiterated his party's previous opposition to the provisions of the 2017 Act enabling a police and crime commissioner to assume the functions of their fire and rescue authority where a local case has been made. He asked about the current status of the proposals that have been put forward by various PCCs, and I can recall a number of PQs on the subject. The House will be aware that the first police, fire and crime commissioner was established in Essex last October. The Home Office has also received fire governance proposals from the PCCs of Northamptonshire, Hertfordshire, Cambridgeshire, Staffordshire, West Mercia and North Yorkshire, as the noble Lord said. He asked for an update on where the various proposals were up to. The proposal from Northamptonshire is currently being considered, but it would be inappropriate for me to comment further at this time. The other five proposals encountered objections from a number of relevant local authorities. In such circumstances, the legislation requires the Home Secretary to obtain an independent assessment of the proposals. These assessments have been carried out by the Chartered Institute of Public Finance and Accountancy, and we are currently considering carefully CIPFA's conclusions alongside each PCC's proposal and consultation outcomes. My right honourable friend the Home Secretary will announce her decision on each of the five proposals shortly.

The noble Lord, Lord Paddick, asked how the reforms to pre-charge bail were operating in practice. Since the introduction of the reforms in April 2017, there has been a significant fall in the use of pre-charge bail. This is to be welcomed and is in line with one of the core objectives of the reforms; the fall demonstrates that the reforms are having the desired effect. We will continue to monitor the impact of the changes and, to this end, we are working closely with the national policing lead for bail and with other agencies involved in the criminal justice process to ensure that the balance remains right and bail continues to be imposed where it is necessary and proportionate.

The noble Lord, Lord Paddick, also asked, given the lack of limits on the length of time an individual may spend under investigation, how individuals who are released under investigation rather than on bail are any better off. While the reforms limit the length of time an individual can be on bail, they do not and were never intended to impose limits on the length of time an individual can spend under investigation. Nevertheless, chief police officers are being encouraged to examine the way that their forces handle cases of those released under investigation—that is, without bail; the noble Lord knows that—in order to ensure that the reforms to pre-charge bail do not inadvertently lead to longer investigations. However, the principle of operational independence means that the management of investigations, including their duration, is a matter for police forces under the direction and control of chief officers. The Government do not have any plans to amend the legislation in this area.

The noble Lord, Lord Blair, asked about pre-charge bail and how the reforms are working out in practice. The Home Secretary, Justice Secretary and Attorney-General are overseeing this work through the Criminal Justice Board, whose members also include the Director of Public Prosecutions and Sir Brian Leveson.

I hope that I have responded satisfactorily to noble Lords' questions and I beg to move.

Motion agreed.

Taylor Review

Statement

4.04 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, with the leave of the House, I should like to repeat in the form of a Statement the Answer given to an Urgent Question in another place in relation to the Government's response to the Taylor review of modern working practices. The Statement is as follows:

"Mr. Speaker, I am delighted to set out the government response to the review of modern working, which was led by Matthew Taylor. Matthew Taylor set out his ambition that government should place as much emphasis on creating quality jobs as it does on the number of jobs. Good work and developing better jobs for everyone in the British economy is at the centre of the industrial strategy vision. The Prime Minister has repeatedly said that as we leave the EU there will be no rollback of employment protections, but today, we are committing to go further than that and seek to enhance rights and protections in the modern workplace for even more people. We will support employers who give individuals their correct employment rights, but we will prevent undercutting by unscrupulous employers who try to game the system by clearly defining who is employed and who is not.

[Lord Henley]

We will extend the right to receive a payslip to all workers, including stating the hours that they worked. We are requiring employers to clearly set out written terms from day one of the employment relationship and extending that to all workers. We are taking forward 52 of the 53 recommendations in the Taylor review, and all but one of the recommendations from the joint report of the BEIS and DWP Select Committees. For workers on zero-hour contracts, we are creating a 'right to request' a stable contract. For the first time, the state will take responsibility for enforcing a wider set of employment rights, including sick pay and holiday pay, for the most vulnerable workers. Employers who lose tribunal claims against staff and are found to have had no regard for the law will face fines of up to £20,000 from the tribunal, quadrupled from the current £5,000, and we will also ensure that when an employment tribunal award is made, it is paid correctly.

The Government are very grateful to Matthew Taylor and his panel, as well as to the many individuals and organisations who contributed to this review. I would also like to thank the BEIS, DWP and Scottish Affairs Select Committees for their contributions to this work. Through this response we are acting to ensure good work for all, to protect the rights of those on low pay and to ensure that more people get protection, security and certainty in the work that they do".

My Lords, that concludes the Statement.

4.06 pm

Lord Grantchester (Lab): I thank the Minister for repeating in the form of a Statement the reply to the Urgent Question in the other place on the Government's response to the Taylor review of modern working practices. This is a very disappointing government response. Against the challenges thrown up by employers using technological innovations in drawing up job specifications, pay and conditions, the Government should focus on the definitions of categories of employment to be clarified and monitored by the Employment Agency Standards Inspectorate. Enhancement of rights merely with payslips and written terms does not go far enough. Will there be clarity in the employment laws in relation to how workers are employed in the so-called gig economy? In the case of a dispute, to whom does a worker go? How will the state take responsibility for enforcement? What rights will apply to which workers on day one of employment, and how will they apply to those on zero-hours contracts? Will any new right to request a more stable contract result in an obligation on the employer? Will the role of trade unions be enhanced to protect and guide their members through any new procedures? A far more comprehensive response will be required after the consultation.

Lord Henley: I am sorry that the noble Lord was disappointed with my response, as I think that we went a long way. He failed to recognise that we are announcing further consultation on some of the grey areas in which there is a lack of clarity. The noble Lord will be aware that we have the Employment Rights Act 1996, and the law on the subject has grown and developed as a result of cases in the courts since then. We all accept that there are grey areas in which there is a lack of clarity regarding employment. That is why my right honourable friend wanted to set up this review and why he has responded with the Statement on good work today. He has also responded with a series of consultations, the first and most important of which is the consultation on employment status. We have responded as we did to get that correct so that we can then move on to legislate where it is necessary. We look forward to helpful contributions from the noble Lord and his party in due course.

Lord Fox (LD): My Lords, on employee status, a central part of the Taylor review concerned dependent contractor status. The Government seem to be agnostic on that. They are going into consultation, but what mood are they in? Are they in favour of moving towards dependent contractor status? If not, why not—and how long will this consultation process take? People are already working in this economy and being exploited by it. Will this require primary legislation? If so, what timetable do the Government envisage before we deal with this issue on the Floor of this House?

Lord Henley: My Lords, the noble Lord seems to think that we need to look only at dependent contractor status but the whole question of the boundaries between employed status and being self-employed also needs to be looked at. That is part of the consultation and I look forward to hearing his comments on that in due course as part of the consultation. Thinking back to the Employment Rights Act 1996—I do not remember its passage, though it is not that long ago—it is very likely that inclarities, if I may call them that, will emerge as a result of the consultation and will need to be looked at, as has happened since 1996. For that reason we are consulting—just to keep the noble Lord busy, there are three other consultations as well, where we would again be grateful for his comments—and it is quite likely that we will need to legislate as a result. As to the likely timescale for bringing forward primary legislation, I am afraid that I cannot give any assurances to the noble Lord. He will be aware that both Houses are rather busy with quite a lot of legislation at the moment.

Lord Monks (Lab): My Lords, we are not short of consultations in this area; Taylor himself carried out a very extensive consultative exercise which the Minister referred to in his opening Statement. It looks to many people as if this exercise is being kicked down the road, with yet more consultation before the Government act. Some modest measures have been announced today—I noticed that the general secretary of the TUC said that a "baby step" had been taken. However, this is not the ambitious approach that the Prime Minister originally set out regarding the insecure labour market which affects so many in Britain today. Many young people are struggling to get secure contracts, and many people who work for agencies feel that their job security is at risk. Many mothers in particular, but also parents generally, cannot plan their childcare arrangements. We recently read about the case of a man who died because he did not want to take up a doctor's appointment because he would be fined. I am not saying that that is typical but there are such cases. For too many people out there the world of work is

nasty, brutish and, occasionally, all too short. When will the Government seize the nettle and move forward in an ambitious way, as we were led to believe would happen when the Prime Minister originally made a Statement on this matter?

Lord Henley: Again, my Lords, I am sorry that the noble Lord takes this rather negative view of what has emerged. Regarding the government response, Matthew Taylor himself said:

"There is much more to be done to make good work for all a realistic goal, but the Government response to my review is substantive and comprehensive. It will make a difference to the lives of the most vulnerable workers and that is what matters".

We are in a position where employment is at an all-time high and unemployment is at its lowest level for some 40 years. Whatever we do, we do not want to damage, but we want to make sure that we make the right changes at the right time and in the right way. That is why there will be further consultation on employment status and on the other matters that I talked about—agency workers, enforcement of employment law and transparency for employees. Let us get that right and then legislate where appropriate.

Lord Holmes of Richmond (Con): My Lords, what is the Government's view on unpaid internships? As the Taylor review chose to pull its punches on this point, does my noble friend agree that it is high time to legislate to put an end to these pernicious practices?

Lord Henley: My Lords, I am aware of my noble friend's concern on this matter and of his Private Member's Bill. A letter is on its way to him and to others who have been involved in that Bill offering a meeting on the subject. I hope that he will receive it in due course.

The Lord Bishop of St Albans: My Lords, a number of things are to be welcomed in the Government's response to the Taylor report but perhaps I may pick up on one small thing. One recommendation is that the Government should develop a free online tool to provide individuals with an indication of their employment status and rights. However, do the Government not realise that a large proportion of the workers who are most vulnerable to exploitation are the very ones who will have least access to that sort of digital connectivity? Will the Minister make a commitment that the question of how more vulnerable people can access this information will be looked at closely when implementing this recommendation?

Lord Henley: The right reverend Prelate makes a very good point—some people do have problems with access to computers and such matters. I know that considerable work has been done on these matters in the Department for Work and Pensions, particularly in relation to universal credit and other benefits. I think that the department finds that most people can manage but I will certainly have a further look at what the right reverend Prelate has said and, if there is anything further that I can add, I will write to him.

Lord Carlile of Berriew (CB): As welcome as the Taylor report is, will the noble Lord, as a fellow member of the legal profession, bear in mind that in that profession and in a number of others there are a large number of very successful limited liability partnerships, the members of which are self-employed and treated as self-employed by the Revenue? Those arrangements are often to the distinct advantage of the professional people concerned—men and women. Will the Government ensure that beneficial limited liability partnerships, which bring a great deal of money into the economy, are not affected by these proposals?

Lord Henley: The noble Lord does me the honour of claiming that I am a member of the legal profession. I suppose that I am legally qualified but I do not think that I could put myself at quite the same level as the noble Lord. However, he raises a very sensible point and it is one that I will certainly want to look at. As I remember my employment law, the important point is that whether you are employed or self-employed should not be a matter for the individual to decide; it is, as it used to be, a matter of fact and degree. I hope that whatever changes we make—particularly changes to limited liability partnerships and those working in them—do not affect that, but I will certainly make sure that the noble Lord's point is taken on board.

Nuclear Safeguards Bill

Second Reading

4.17 pm

Moved by ***Lord Henley***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, before I set out the context surrounding, and the key features of, the Nuclear Safeguards Bill, I think it would be helpful to explain again the meaning of nuclear safeguards. Investing a little time in this will, I believe, help with our discussion of this important but rather technical issue.

Nuclear safeguards are about non-proliferation and demonstrating that the United Kingdom is a responsible nuclear power. Nuclear safeguards are the reporting and verification processes that nuclear states use to demonstrate to the international community that civil nuclear material is not diverted into military or weapons programmes. The Bill has a very specific purpose in a very technical area: it ensures that the United Kingdom can put a domestic civil nuclear safeguards regime in place.

It is important to make clear at the outset, as it is key to understanding the subject matter covered by the Bill, that civil nuclear safeguards are entirely distinct from nuclear safety and nuclear security. Nuclear safety concerns the prevention of nuclear accidents, and nuclear security concerns physical protection measures. Both nuclear safety and nuclear security are already the responsibility of the Office for Nuclear Regulation and are unaffected by the Bill.

As a responsible nuclear state, the United Kingdom is a committed member of the International Atomic Energy Agency, which provides international oversight

[Lord Henley]
of civil nuclear safeguards. The United Kingdom has voluntarily accepted the application of international safeguards through agreements with the agency and is seeking to conclude new agreements with the agency that follow the same principles as our current agreements. We were a founder member of the IAEA back in 1957 and we continue to be at the forefront of its activities. Leaving Euratom will not change that.

The United Kingdom's nuclear safeguards regime is currently provided primarily by Euratom with some support from the Office for Nuclear Regulation. The European Union and Euratom are uniquely legally joined, so when the Prime Minister formally notified our intention to leave the European Union, she also commenced the process for leaving Euratom. The United Kingdom therefore served notice of its intention to withdraw from Euratom at the same time as withdrawing from the European Union. The Bill therefore enables the United Kingdom to ensure that a domestic nuclear safeguards regime can be put in place when Euratom safeguards arrangements no longer apply to the UK.

The United Kingdom's withdrawal from Euratom will in no way diminish our nuclear ambitions. Maintaining the continuity of our mutually successful civil nuclear co-operation with Euratom and international partners is a key priority for us. We remain absolutely committed to the highest standards of nuclear non-proliferation, including safeguards, and the United Kingdom will remain a committed member of the global architecture that provides the framework for non-proliferation.

Civil nuclear safeguards and reporting, by assuring the international community about the proper use of certain nuclear materials, underpin international civil nuclear trade. Alongside the consideration of this Bill in the House of Commons, the Government have been engaging in negotiations with the European Union, the IAEA and third countries. The United Kingdom has held several rounds of discussions with the European Union in the first phase of negotiations and there has been good progress on Euratom issues.

Negotiations with the IAEA on future voluntary agreements for the application of civil nuclear safeguards in the United Kingdom have been constructive and fruitful, and substantial progress has been made. Substantial progress has also been made in negotiations to put in place new nuclear co-operation agreements. In particular, constructive progress has already been made in discussions with key partners such as the United States, Canada, Australia and Japan.

It is clear that we need continuity and must work to avoid any break in our civil nuclear safeguards regime if we wish to support the United Kingdom's nuclear industry and its nuclear research community. A civil nuclear safeguards regime and safeguards agreements with the IAEA are critical for the continued operation of our civil nuclear industry and research. As set out in the Written Statement laid on 11 January, our strategy for withdrawal and our future relationship with Euratom is two-fold: first, to seek, through our negotiations with the European Commission, a close association with Euratom; secondly, and simultaneously, to put in place all the necessary measures to ensure that the United Kingdom can operate as an independent and responsible nuclear state from day one. This is vital to ensure continuity for industry, whatever the outcome of negotiations.

We will also seek to include Euratom matters within any negotiated implementation period. The Government also made the commitment to report back to Parliament every three months, by way of further Written Statements, about overall progress on this strategy, including in respect of negotiations. We have been working closely with the Office for Nuclear Regulation to ensure that it can be ready to take on new responsibilities for a domestic safeguards regime, in place of Euratom's current regime.

As my predecessor, my noble friend Lord Prior, set out in a Written Statement on 14 September 2017, our intention is for the new domestic regime to exceed the standard the international community would expect from the United Kingdom as a member of the IAEA. The Government are aiming to establish as soon as possible after the United Kingdom's withdrawal from the European Union a robust regime that is as comprehensive as that currently provided by Euratom.

Lord Rooker (Lab): I am sorry to interrupt the Minister, but this issue was raised recently in the EU Energy and Environment Sub-Committee inquiry into energy security. The ONR cannot be independent in the same way that Euratom was. The accounting officer is appointed by the DWP accounting officer. The chair of the ONR is appraised by the DWP. How can it be sold to the IAEA that the ONR is as independent as Euratom?

Lord Henley: My Lords, I will take advice but my understanding is that the IAEA does not have concerns about this issue, which is part of the ongoing discussions with that body. As I said, discussions have taken place and they will continue. The Bill will be considered in this House for some weeks and in due course, I will give a further reassurance to the noble Lord to make sure that he and others are satisfied that the ONR can perform this role.

Perhaps I may continue with my remarks. Currently, under the Euratom treaty, all members including the United Kingdom subject their civil nuclear material and facilities to nuclear safeguards inspections and assurance which is carried out by Euratom. Euratom then reports specific information on member states to the IAEA, which has international oversight for those nuclear safeguards. The Nuclear Safeguards Bill ensures that the United Kingdom can put this domestic regime in place and it will enable the ONR to oversee nuclear safeguards when Euratom safeguards arrangements no longer apply to this country.

To ensure continued international verification and oversight of the United Kingdom's safeguards, as I have said to the noble Lord, we will continue in our discussions with the IAEA to agree replacement voluntary safeguards agreements that reflect the fact that the Euratom arrangements no longer apply to the United Kingdom. This Bill provides us with the ability to implement those new agreements as well as the new domestic regime that underpins them.

Lord Lea of Crondall (Lab): This part of the noble Lord's speech suggests that it is a given that we are leaving Euratom, and the noble Lord is nodding in assent. Is he not aware that leaving the European Union does not necessitate leaving Euratom? If we were to stay in the European Economic Area by switching to being a member of EFTA, there is a whole raft of EU agencies which people can still belong to. Are the Government, even at this late stage in the negotiations, not clear about that?

Lord Henley: My Lords, I do not think that the noble Lord has been following what has been happening in this House and in the other place. We have the European Union (Withdrawal) Bill going through at the moment and last year we had the Bill which in a sense set off Article 50, which has gone through. By those means we are committed to leaving the EU and for that reason—

Lord Lea of Crondall: No.

Lord Henley: Yes, my Lords, we are leaving Euratom. That is the case, and the simple fact is that we have to make provisions for leaving Euratom and that is why we are doing this.

Lord Lea of Crondall: No, not true.

Lord Henley: The noble Lord says that what I have said is not true. I would ask that he withdraw that remark. We are leaving Euratom and that has been made clear.

Lord Lea of Crondall: I will withdraw that particular remark which used the words, "not true", but if we stay in the European Economic Area, we would have withdrawn from the European Union but would still be able to be part of these agencies.

Lord Henley: My Lords, Euratom consists of the 28 members of the EU and no others. There are two countries which have some sort of associate membership, but that would not be appropriate for us. Being members of EFTA would not do that. The noble Lord will have to accept that we are leaving Euratom. That is the case and we therefore need to make provisions. If the noble Lord will bear with me, I will now tell him about the Bill.

Clause 1 will amend the Energy Act 2013 to replace the Office for Nuclear Regulation's existing nuclear safeguards purposes with new nuclear safeguards purposes which reflect the nature of the new regime. The ONR will reflect the new nuclear safeguards regime primarily using its existing relevant functions and powers. Clause 1 will also amend the Act by inserting new powers so we can set out in regulations the detail of the domestic safeguards regime, such as accounting, reporting, control and inspection arrangements.

Clause 2 will create a limited power—I stress limited power—enabling consequential amendments to be made to the Nuclear Safeguards and Electricity (Finance) Act 1978, the Nuclear Safeguards Act 2000, and the Nuclear Safeguards (Notification) Regulations 2004. It is a very narrow power that will mean that references in that legislation to existing agreements with the IAEA can be updated once international agreements have been reached.

In addition, in January we published two sets of pre-consultation draft regulations to support consideration of the powers in the Bill, on which we have been working closely with the ONR. The Government are committed to an open and transparent approach as they continue to develop these regulations, which set out the detail of the domestic civil nuclear safeguards regime. We expect these draft regulations to continue to evolve in response to comments from and consideration by noble Lords and other stakeholders. To that end, the department is planning a series of stakeholder events and workshops in addition to the public consultation on the regulations, which we intend to take place later in the year. The drafts we eventually consult on will, of course, in certain respects differ from the working drafts that we have provided for the benefit of Parliament.

I now turn to one final issue that is not strictly relevant to the subject of the Bill but has been raised in another place and in meetings that I and others have had with noble Lords. It is the question of medical radioisotopes. I appreciate that the noble Lord, Lord Hunt of Kings Heath, has tabled an amendment to the EU withdrawal Bill on this very issue. It might be that that would be a better place to discuss these matters in due course rather than here. I could not possibly comment on what might be the appropriate Bill, other than to say that I do not think that it is, strictly speaking, relevant to this Bill, but because of the concerns that been expressed on this issue, it would be right for me to make a few points and give assurances to the House that the supply of medical radioisotopes is, and will continue to be, a very high priority for the Government. We share that concern about the well-being of patients receiving such treatment that results from being able to import such materials in good time, bearing in mind the relatively short lives that medical radioisotopes have.

We have made it clear that Euratom currently does not place any restrictions on the export of medical radioisotopes to countries outside the European Union. As they are not classified as special fissile material they are not subject to the international safeguards regime or to the approval of the Euratom Supply Agency, which governs the supply of special fissile materials. Although its role does not extend to ensuring the supply of medical radioisotopes, the Euratom Supply Agency established in response to the last shortage crisis in 2012 the European Observatory on the Supply of Medical Radioisotopes. The observatory aims to consolidate and share information between the EU, European Union member states, international partners, the medical community and industry stakeholders on supply, but crucially it does not have a decision-making or executive role in responding to shortages.

However, the Government recognise the concerns that changes to our customs arrangements after our withdrawal from the European Union could potentially affect the timely supply of medical radioisotopes. Therefore I offer an assurance to the noble Lord, Lord Hunt, and other noble Lords who have raised this point that

[LORD HENLEY]
the Government are committed to minimising any impact such changes might have. I have had meetings with counterparts in the Department of Health and Social Care and Her Majesty's Treasury to step up our work in this area. We are working across government to prepare domestically and to negotiate a future customs arrangement with the European Union that ensures cross-border trade in this area is as frictionless as possible.

Lord Carlile of Berriew (CB): I am grateful to the noble Lord for what he has just said, but are we to take it that the sentence in the factsheet on the Bill that was given to your Lordships' House at some very useful meetings still applies in relation to radioisotopes:

"This will be part of the broader negotiations of the UK's future with the EU"?

If so, will he tell us what that means?

Lord Henley: My Lords, it is exactly the same as what I have said—as part of our broader negotiations we will obviously want to ensure that, in the words I think I used, a future customs arrangement with the European Union is as frictionless as possible. We understand the importance of these matters. It is as frictionless as it can be at the moment; we want to make sure that that continues. I do not believe that it is strictly relevant to the Bill but it was important to bring the matter up. I am very grateful to the noble Lord, Lord Hunt, for tabling an amendment, which will be discussed, to another Bill, but I want to give assurances that the Government are doing everything we can to make sure that such imports are frictionless, just as their export from Europe will be frictionless and just as they are frictionless in their export from Europe to non-EU countries at the moment. It is a matter of giving assurances as to what the Government can do and I hope that that will help to reassure noble Lords.

Lord Warner (CB): I did not quite understand what the noble Lord was saying in his attempts to reassure us about Euratom's observatory. As I understand it, the observatory was an important part of smoothing out problems when there were supply issues around radioactive isotopes. Is he saying that the observatory will continue for all those who have the benefit of being in Euratom but those who leave will not have any equivalent benefits and it is impossible for the UK to achieve such access to those benefits?

Lord Henley: It is a body set up by Euratom for Euratom, therefore it has an interest in ensuring safe export from the EU. There is no problem of the export of radioisotopes from the EU to non-EU countries. We want to make sure that when we are no longer part of Euratom that continues to be the case. That is why I am trying to give assurances based not only on what is coming out but on what the United Kingdom Government can do at our end. I hope that that will deal with the noble Lord's problem.

Lord Warner: I do not think that that answers the point. The noble Lord is saying that they will go on helping to smooth out the supply to EU countries, but the UK will be left over here somewhere, unable to benefit from that if there is a world shortage of radioactive isotopes. That seems to me to be what he is saying: will he just confirm that that is what he is saying?

Lord Henley: I have a sneaking suspicion that the noble Lord is deliberately misunderstanding me. What I am trying to make clear is that we have to deal with not only what we want to import but obviously what is being exported from Europe. Euratom has an interest in what is being exported. Euratom is quite able, through the advice offered by the European Observatory on the Supply of Medical Radioisotopes, to look after the export of such radioisotopes. We have an interest in their export because we will be importing them as a non-EU country in the future. What I wanted to do is to give the noble Lord, if he will accept it, and other noble Lords an assurance that everything that can be done by the Government, and everything that is relevant in the negotiations, is being done to ensure a continued supply from European countries, just as there will continue to be supply from countries such as South Africa, from which we also import medical radioisotopes. I hope I have given sufficient assurance to the noble Lord, Lord Warner, that he will accept that we are doing what we can. As I made clear earlier, I do not think it is relevant to this Bill but I wanted to deal with the concerns raised by the noble Lord, Lord Hunt, and others during the passage of the EU withdrawal Bill.

The powers in the Bill give the existing independent nuclear regulator—the ONR—a new role to regulate nuclear safeguards, alongside its existing role, which it performs very well, regulating the United Kingdom's nuclear safety and security. The Bill sits alongside other work around our future relationship with Euratom, the IAEA and third countries. Of course, we do not know what the final arrangements will be so we are doing what any responsible Government would do by being ready to put in place a civil nuclear safeguards regime for the United Kingdom through the Bill. I reiterate that although the United Kingdom is leaving Euratom, we will continue to support Euratom and want to see continuity of co-operation and standards and a close future partnership with it. I beg to move.

4.41 pm

Lord Grantchester (Lab): My Lords, there are indeed many concerns. I have yet to hear any principled criticisms regarding the objectives, operations and outcomes of the EU's civil nuclear organisation and the framework around Euratom. Indeed, widespread dismay was expressed when it was announced that, in consequence of the leave vote, the UK must leave Euratom. The Bill sets up a parallel inspection, monitoring and regulatory regime as robust as that which exists under Euratom, to be the responsibility of the ONR.

The Euratom treaty is legally distinct from the EU treaty but it shares the same constitutional oversight as the EU: the European Commission, the Council and the European Court of Justice. Although the decision that the UK should leave Euratom is contested by some expert legal advice—and my noble friend Lord Lea—the Government have chosen to do so because of the technical jurisdiction of the ECJ, even though I understand that there has never been a case

referred to it. The Government wish to replicate Euratom's functions and the Bill is confined to the safeguarding functions.

The International Atomic Energy Agency—IAEA—was set up also in 1957 to be the world's intergovernmental forum for scientific and technical co-operation in the civil nuclear sector. It was set up under the non-proliferation treaty to safeguard nuclear material. Euratom also provides information on member states' safeguards to the IAEA. Euratom and the IAEA carry out joint inspections of nuclear sites in the UK and endeavour to avoid duplication. There are, therefore, tripartite agreements the UK's fulfilment of which relies on the UK's membership of Euratom. The Government intend to replace these tripartite agreements with bilateral commitments whose robustness we will need to examine as the Bill progresses. Perhaps the Minister will say at this stage whether, under the Constitutional Reform and Governance Act 2010, he expects that Parliament will need to ratify these arrangements.

Leaving Euratom without the correct policy, regulatory and research framework in place will have significant implications for the UK's nuclear and radioactive waste industries, as well as the health industry through radioisotopes, as we have just been discussing. Euratom undertakes supervision of nuclear safety, nuclear fuel supply security, radiation protection through the proper use of materials and safeguards, and research and development in nuclear fusion, as well as radioactive waste and decommissioning. As such, it impacts on many sectors of the economy, including construction and the necessary skills, manufacturing of parts, technical expertise and research.

On the Government's insistence that leaving Euratom is included in the Article 50 letter and Bill, we agree that this Bill is necessary and that the UK must have a robust safeguarding system in place to meet our obligations. The new arrangements need to be as comprehensive as the current Euratom regime to enable public confidence in continuing high standards, to give international partners confidence in engaging in civil nuclear trade, to support the UK's ongoing commitment to the global non-proliferation treaties and to demonstrate that the UK is a responsible nuclear state. On all these parameters, there must be severe doubt that the Government can meet these challenges in the timeframe required.

The proceedings in the other place demonstrated that the ONR could not maintain a regime equivalent to the standard set by Euratom from day one. Dr Golshan of the ONR made clear that the aim to have a system in place by March 2019 was unrealistic. The quality and quantity of inspectors required could not be recruited in time. Instead, it is likely that the UK could meet the lower standards set by the IAEA. The Government therefore need to clarify whether they are prepared to start the inspections at a lower level before increasing them to Euratom standards.

The Government recognised the issue with a ministerial Statement on 11 January which stated:

"We will seek a close association with Euratom and to include Euratom in any implementation period".

"Any implementation period" gives the Government a further two years in which to put in place all the necessary measures. In so far as leaving Euratom has additional and separate wording in the Article 50 letter, will the Minister confirm that this gives the Government the opportunity to secure an implementation arrangement unique to that sector, should the more general and wider exit discussions prove less fruitful? It is imperative for this Bill. There are two treaties. Can the Government clarify that the implementation period acts in relation to this situation?

The ministerial Statement stated that the intention was,

"to ensure a future safeguards regime that will be equivalent in effectiveness and coverage as that currently provided by Euratom, including consideration of any potential role for Euratom in helping to establish the UK's own domestic safeguards regime".

We need to explore that potential role for Euratom during the implementation period and whether this Bill needs strengthening in that regard. For example, I imagine that the Minister will confirm today that the UK could subcontract inspectors from Euratom to continue monitoring UK facilities. Practicalities must help shape the architecture necessary for Brexit, and this Bill fits into the wider Brexit discussions.

The ministerial Statement continued by stating that,

"it is vital that Government pursues all options for providing certainty for the civil nuclear industry".—[*Official Report*, Commons, 11/1/17; col. 399WS.]

Our amendments in Committee will have this in mind. During the passage of the Bill through the other place, it was proposed that this close association could take the form of an associate membership—a status that is allowable under Euratom's constitution. The reports are that this week the Government are trying to determine what they want in their future relationship with the EU. The Minister has the opportunity today. There would be little advantage to be gained from regulatory divergence for the nuclear industry outside Euratom. It is hardly a worthy answer to repeat that there is no associate membership class at present under Euratom.

Reconciling legal certainty with flexibility to negotiate presents challenges. The answer cannot include unfettered use of unconstitutional Henry VIII powers under Clause 2 to amend primary legislation. In the other place amendments to constrain those powers were proposed. We also have concerns about the use of those powers. Your Lordships' Delegated Powers and Regulatory Reform Committee has yet to report on this Bill. We await the committee's report with interest and will consider appropriate amendments for Committee.

The Bill is drawn up to be narrow in scope. Nevertheless, we need to be aware of all Euratom's functions and to explore all of its facets, so that the Government can assure the industry that it will continue without disruption post Brexit. Part of the safeguarding regime will include nuclear co-operation agreements. The UK currently utilises Euratom's NCAs to facilitate trade. Euratom has nine NCAs at present. Although there are requirements for some countries and not others, the UK will need to agree many bilateral NCAs within the necessary timeframes. Can the Minister commit to bringing these to Parliament and confirm the procedure that the Government will utilise?

It is vital that the Government make progress on developing new NCAs quickly. Given that these can only begin after the UK has satisfied the IAEA with

[Lord Grantchester]
regard to its safeguarding regime, it is essential that the UK implements its safeguarding protocols as soon as possible. The ONR has already suffered funding cuts. Under the impact assessment recently published, it is clear that the ONR must be given all the resources it needs to take up the responsibilities included in the Bill. Can the Minister assure the House that the Government will not only commit to providing resources but will not be calling on the industry to co-fund the inspection regime through cost recovery? At present it is funded through the UK's contribution to the EU budget.

The immediate disquiet around the announcement that the UK will be leaving Euratom focused on two clear concerns: the valuable R&D facility of the Joint European Torus—JET—programme at Culham in Oxfordshire and the supply and maintenance of medical isotopes vital to the health service. The fusion research programme supports 1,300 jobs in the UK and is instrumental in attracting the expertise the UK needs in the nuclear industry. The EU currently provides 88% of JET running costs. Given Switzerland and Ukraine's association status with Euratom, it is imperative that the Government examine the scope of this associated membership, even if it is limited to research and development facilities. Given how much of the Brexit process will involve the UK and EU navigating an implementation period, trade and the movement of product and expertise—and seeking unprecedented solutions—should not the Government be seeking agreement on a form of association?

The continuing supply of isotopes in medicines has also been subject to questions and debates, and even today has needed extra explanatory exchanges. The UK's regulatory regime for setting and enforcing standards for the safe use, disposal and transportation of medical isotopes is based on international regulatory requirements informed by the IAEA. The supply has implications for cross-border EU negotiations and trading, and as such merits further investigation. The issue and how relevant it is will certainly need to be examined as the Bill progresses.

Regarding radiation protection, the UK is currently implementing the Euratom basic safety standards directive, which updates the UK's radiation protection standards. Euratom also underpins trade in nuclear materials, and this will impact on the UK's security of supply. The replacement arrangements with Euratom will need to cover the ownership of nuclear material. I understand that Euratom appears to be seeking to retain rights over uranic material on UK territory which EU customers have the right to use.

It is a complex task to follow up on all these issues through the various framework architectures. In a briefing the Nuclear Industry Association submitted, in conclusion to its analysis of requirements for the UK withdrawal from Euratom, it drew up a checklist highlighting five actions for the Government. The first is to agree the replacement voluntary offer safeguards agreement with the IAEA and to refund and resource the ONR to establish the UK's safeguards regime. The second is to negotiate and conclude NCAs with nuclear materials. The third is to clarify the validity of the UK's current bilateral NCAs with Japan and other nuclear states. The fourth is to set out the process for the movement of nuclear material, goods, people, information, services and protection, to be agreed with the Euratom supply agency. The fifth is to agree the new funding arrangements for the UK's involvement in fusion for energy and the wider EU nuclear R&D programme. Perhaps the Minister could undertake to map out during the passage of the Bill the Government's own plans across the field and to clarify in one place the various interlocking arms of the regulatory framework, highlighting the various measures to be enacted under various Brexit Bills to come. I am sure that would be very helpful to all noble Lords.

Labour believes that the best way to maintain nuclear safeguards and protect the nuclear industry is to achieve an equivalent arrangement with Euratom, at least in the implementation period. The Government were reckless to rule out continuing Euratom membership, making the ECJ a defining characteristic.

The Bill is only one small part of the picture. Clarity and certainty for the industry are still missing. I have outlined our five key concerns. We will seek to address them all during consideration of the Bill.

4.56 pm

Lord Fox (LD): My Lords, I thank the Minister for his very tolerant and understanding introduction. I congratulate the noble Lord, Lord Grantchester, on a comprehensive assessment of the situation, with much of which I associate this party.

Judging from the debate in the other place, I expected to be told that this was a narrow technical Bill and that it was about safeguarding, not safety—and so we were. Like the Minister, though, I have sneaking suspicions too: I suspect that by narrowing the focus of the Bill and the debate, the Government were hoping to avoid having to debate many of the other issues. I am afraid that, as we have already seen and as the Minister has experienced, that will not be the case. There are important issues in addition to safeguarding—which is of course important—such as providing the nuclear single market for goods and services, and providing funding for nuclear fusion research.

How did it come to this? Not even the most ardent no voter in the referendum was aware that a vote against the EU was going to turn into a vote against Euratom. I have not met anyone who voted against Euratom in the referendum. I agree with the honourable Member for Oxford West and Abingdon in the other place when she said:

> "The most sensible approach to nuclear safeguarding would be for the United Kingdom to remain a member of Euratom",—[*Official* Report, Commons, 16/10/17; col. 648.]

rather than having to go through this process. This view has been supported by the Nuclear Industry Association, as we have heard, but the Government have produced and waved around legal advice to say that that is not possible. With all due respect to some members of the legal profession in this House, my experience is that the answer you get is only sometimes associated with the question you asked in the first place. I believe some others had a legal opinion that points in the other direction. The NIA also states that leaving Euratom without having replicated and replaced

the current arrangements could impact on the supply of electricity and medical isotopes. That is why your Lordships are right to be concerned about this. The NIA calls for a transitional period to guarantee continuity and avoid a cliff edge in March 2019. Can the Minister outline the Government's position regarding transition?

As the Minister outlined, the first clause is about creating powers for the ONR and the second is one of the now-traditional Henry VIII powers that seem to pop up in every piece of legislation that comes before your Lordships' House. I shall leave the Clause 2 debate for Committee stage, except to reiterate the concerns that the noble Lord, Lord Grantchester, has already expressed. I will dwell on Clause 1 and the aim of reforming existing legislation to ensure that the ONR is able to pick up its important safeguarding role next spring, in the event that the Government continue to press on with departing from Euratom.

The legislation appears to be the easy bit. The challenge is the scramble to get all the pieces in place in the event of the metaphorical cliff edge arriving. The Bill fails to make any clearer how the Government will address the practical challenge of setting up this regime. It is a hands-off approach. At the moment, as the Minister knows, Euratom employs about 160 staff, a quarter of whom focus on UK installations. We are told that the ONR is recruiting and training people to replace the 40 Euratom safeguarding staff. Can the Minister tell us how that is going and by how much the ONR budget is being and has been increased to facilitate this up-skilling?

There is the issue of facilities. Will the ONR be taking over existing Euratom equipment and facilities in the UK? If so, have the Government given thought to the liability it is taking on? Will taking ownership make the ONR or BEIS liable for the decommissioning, removal and disposal of any equipment taken on as a result of the transfer? Again, what is the projected cost of liability?

Those are just a couple of issues. There is so much to do and so little time to do it. Does the Minister agree with the senior ONR official cited by the noble Lord, Lord Grantchester, who told the Commons BEIS Select Committee that the timescale for adding safeguarding responsibilities to the ONR is very challenging?

Looking beyond our shores for a moment and turning to the wider proliferation landscape, my noble friend Lord Teverson will pick up on the international and institutional issues. I just note that to cover for our Euratom departure, the UK will need to complete international agreements with a wide range of non-EU countries. Once again, this is a formidable to-do list, especially given that there are one or two other things to do associated with the whole Brexit process. It relies on an enormous groundswell of good will from the global nuclear community. Let us hope that this is forthcoming.

Briefly, I turn to the two areas of Euratom actively ignored by the Bill: the nuclear single market and nuclear fusion research. The Minister has already try to bat those to one side as irrelevant to the Bill, but he should recognise the legitimate concerns of noble Lords about these issues and that, unless there is another forum for us to debate the wider nuclear agenda, this is the only game in town. For that reason, he should take these issues seriously and engage with this debate.

The focal point of the free market issue has been and is radioactive isotopes for medical and scientific use. The concern is not trumped up by politicians; it has come from radiologists, scientists and practitioners in the industry. It is a genuine concern and legitimate issue that the Government have to address.

If it is not this Bill, if it is not BEIS, can the Minister tell us which department and who in that department is now working on this process, who will be accountable and when we will have the opportunity to discuss that on the Floor of the House? As the Member for Wantage so compellingly put it in the other place, we need to replicate the nuclear common market that exists because of our membership of Euratom. I would add that because the Prime Minister has now said that we will not have a customs union, this becomes much harder. During the course of the Bill, the Minister must explain how this common market will be achieved. It is not just about radioisotopes. Post exit, if a nuclear component is sourced outside the UK for a project to build or maintain a nuclear power station, it could no longer be seamlessly imported. Delay in such matters is critical.

This is not theoretical. As EDF has pointed out, the Sizewell B plant breakdown in 2010 was handled using the nuclear market arrangements. They will not be available in future.

The Commons BEIS Select Committee views withdrawal from Euratom as having a considerable impact on the UK civil nuclear sector. Having listened to the Minister's opening comments, he seems to be accepting that there will be more friction than there is now—"as frictionless as possible" is an acknowledgement that friction will exist. He said that everything that could be done will be done, and "We are doing what we can". If the Minister is a betting man, would he put it at 70:30 that he will do as much as can be done, or is it a 60:40 chance that we will succeed in this negotiation?

Another area on which noble Lords will talk in detail is nuclear research. As the Minister knows, the UK is home to JET. The Government have underwritten Culham, I believe to 2020, which the Minister will realise is not very far away. People working there need certainty and to know what is happening beyond 2020. The UK has benefited in the long term from fusion projects, and I believe that the Government want that to continue. Membership of the Fusion For Energy programmes has led to at least £500 million of contracts for UK concerns, but there needs to be long-term security for this research, and 2020 does not constitute long term. Perhaps the Minister can help with this. This is not just about the prospects for the projects; brilliant researchers and engineers have gathered here from across the whole of Europe, and they need to know the status of their project as well as the status of their passport.

By hiding behind the narrow remit of this Bill we are not addressing these important issues, which we look forward to hearing more about. My party will work to help improve the Bill, but we are disappointed that it deliberately ignores some very important issues

[LORD FOX]
and concerns of this House. Given that this is the only chance to air them, the onus is on the Minister to come to the Dispatch Box with a broad mind and a full set of answers to this wider set of issues. We await his answers with interest.

5.07 pm

Baroness Neville-Rolfe (Con): My Lords, I welcome this Bill, and I am glad that it is shorter and clearer than most other comparable Bills. As this is the Second Reading debate, I will touch on three areas: EU aspects of what is planned; prospects for nuclear; and then I will ask some detailed questions about the Bill itself.

I resisted the temptation to add to the enormous numbers speaking last week on the withdrawal Bill. I should, however, state clearly that I am in the camp of those who voted remain, but unlike the noble Lord, Lord Fox, now believe that, following the democratic vote in the referendum, we should get on with Brexit. Given the attitude of the EU negotiators I am, sadly, increasingly doubtful about the prospect of reaching a broad-based deal with the EU. The clearly expressed attitude of the EU negotiators that the UK's preferred outcome is not possible for them, needs to be reflected in a more realistic UK position in the negotiations, based on the fact that our future is outside the EU, not half inside it. But that is, in the main, for another day. However, it means that, as a contingency, we need to work very hard now to be ready for a bare bones deal, which will keep the aeroplanes flying, the interconnectors working, and so on.

Turning to the nuclear area, as a former Energy Minister, my judgment is that we need to pass this Bill quickly and get on with the negotiations with the IAEA and other nuclear powers. Moreover, I would not yet completely rule out the possibility of extending Article 50 in the case of Euratom if unforeseen problems arise. My view is that this would have no real implications for Brexit overall. I would be amazed, indeed, if the EU would have a problem, given the potential dangers of nuclear material and the mutuality of interest in proper nuclear safeguards across Europe.

I turn to the prospects for the nuclear industry, and endorse what was said by the noble Lords, Lord Grantchester and Lord Fox, about the importance of nuclear fusion research. I speak today partly because of my support for nuclear power, which of course started in this country in the 1950s at Calder Hall, another British innovation. Nuclear is still responsible for more than one-fifth of UK electricity generation, and we know that most of this is produced in reactors whose life will probably be over by the 2030s. Renewable energy has been growing, but in some weeks we produce tiny amounts of energy from wind and solar because of the intermittency problem—blame the UK weather.

I am therefore a believer in what I like to describe as a portfolio approach to energy. Security of supply is vital, and diversification is as important for energy as it is for financial investment if we are to avoid disasters in future generations. Nuclear, which is virtually zero carbon, has to play a key part internationally and in the UK, which is why the safeguards against proliferation, which are at the heart of today's Bill, are so important. I take this opportunity to ask the Minister to update us very soon on nuclear investments that secure a baseload capacity for the future. What is the state of play on Hinkley? Have we found a way of securing investment in the other five power stations for which we have proposals across the UK? What has happened to the plans for small modular reactors? We know they work technically, as they have been used by the Royal Navy for years. To my mind, they offer export potential in a post-Brexit world, especially given our strong record on nuclear safeguards and security—the subject of today's Bill. The Government have rightly earmarked substantial funds for UK infrastructure. I believe that some of this should go to securing nuclear investment as part of a sustainable energy portfolio and to ensure that power cuts do not blight our old age.

I am supportive of the Bill, and glad to see the use of affirmative resolution SIs in key areas. It is helpful that we have been given sight of the regulations in draft that will be made under the Act later this year. That inspires real confidence. I commend the Minister and his colleague in the other place, Richard Harrington, for this, and indeed for the briefing meetings that have been arranged to get us all up to speed. This making available of draft regulations early could usefully be adopted more widely in the Brexit context. That could increase understanding in a complex and difficult area, and I shall come back to it as an idea on another day.

There are, however, some questions which I hope to explore in Committee, if today's debate does not assuage my concerns. First, I would like to understand how the proposals relate to nuclear waste. This is an important UK operation, with Sellafield pioneering innovation in safe disposal to the benefit of its large Cumbrian workforce, and government plans, out for consultation, for a new geological disposal facility. The government memorandum on delegated powers says that there are about 100 UK facilities or other duty holders subject to Euratom standards and safeguards. What and where are these? I also associate myself with the questions about the movement of medical isotopes raised by the noble Lord, Lord Grantchester, and others. This issue must be addressed here, or in another Brexit Bill—and it is good to hear the Minister saying that he is focusing on the issue.

Secondly, on resourcing, according to the memorandum ONR has five areas of responsibility; it looks after safety, site health and safety, security, safeguards and transport, following its separation from the Health and Safety Executive in 2014. I would like to understand how well that change has worked and be reassured that the resourcing is adequate for the future, with enough expertise and enough money, and without over-the-top fees on nuclear operators. It is a tight timeframe so this issue of resourcing matters a lot.

Thirdly, is the ONR geared up for a crisis? We would not want to find out that it was not after the event. Learning from Grenfell, can the ONR secure rapid back-up help from the Government, the police and security services and other agencies?

Finally, I note that there is no review clause in the Bill. Given that, what are the arrangements for reporting to Parliament on an area of such importance, both within and beyond the Brexit period? The Bill does not provide for an annual report. Is this provided for

elsewhere? Perhaps the Minister can reassure us and agree that the safeguards work will be properly covered in any annual report.

5.15 pm

Lord O'Neill of Clackmannan (Lab): My Lords, the purpose of this Bill, Brexit notwithstanding, is to try to sustain the confidence of the public in the nuclear industry in the United Kingdom. It is fair to say that, since the non-proliferation treaty of 1968, there has been a growing awareness of the split between civil and military nuclear activity. Indeed, the opposition to nuclear power had begun to dip—although there have been periods of increased popularity—and, since 1968, a lot of the misgivings about nuclear power have been reduced. This is because there have been, in varying forms, regimes that would look after civil nuclear power in its various manifestations.

Prior to Euratom, that was done by the IAEA, which in those days was probably not the most rigorous of organisations. Indeed, when one looks at the record of the nuclear industry—for example, the way in which it stored and dealt with nuclear waste for many years—it was somewhat haphazard. However, this is now very rigorously addressed and it is fairly successful, although the enormity of the task at Sellafield means that it is slow and, by necessity, exceedingly fine in the manner in which it is dealt with.

When we are confronted with the departure from a regulatory organisation such as Euratom, we have to cast around to find a means to deal with it in a way that will not undermine public confidence. It is significant that we no longer refer to the Office for Nuclear Regulation as the Nuclear Installations Inspectorate, because it is now a somewhat different organisation and enjoys a degree of financial independence, which enables it to employ and retain an inspectorate. Prior to the changes, the old inspectorate had terrible leakage problems. It had some of the most capable nuclear physicists in the country, but for understandable reasons they went elsewhere to work—they were paid far more by the private nuclear companies. Without Euratom, the work of the Office for Nuclear Regulation will become that much more critical.

It would be wrong to suggest that we can just stand by and take the IAEA standards. The IAEA covers the whole of the world's nuclear-generating capability. Not all countries that are members of the IAEA have the capability, or indeed the desire, to achieve the standards of performance that we regard as essential for the safety of our public and for the acceptance of nuclear power.

In examining the Bill, we must first look at the capability of the Office for Nuclear Regulation to replace the staff who will be lost because of the absence of Euratom's officials. That is probably the first priority. We have to make sure that the necessary money and resources will be made available, and that it is not done at the expense of an industry undergoing a lot of difficulty one way or another.

Secondly, we have to explore how we can realistically maintain a relationship with Euratom that is capable of sustaining those high levels of safety. Euratom will have the means to explore what is required in a way that an individual country cannot do. If we are talking about an organisation that sits alongside Japan and Canada, we need to be in that kind of position. In a number of areas our withdrawal from Euratom may not be quite the national tragedy that some people suggest, but we need to work a bit harder at getting that brought across. So far, the Government have not given a convincing explanation of our future relationship with Euratom.

On the medical issues and whether they could be the subject of an additional clause, I think that would probably be difficult, given the Long Title. However, those issues need to be addressed for obvious reasons.

Lastly, one of the problems faced by the nuclear industry in the round—that is, civil and defence—is that there has been a tradition of secrecy and a desire not to let anybody know what is going on. As regards health and safety, one could argue that in the civil field people should not necessarily have to be preoccupied or concerned with what is going on within the industry. However, I am not certain about that argument. I tend towards the view that transparency can be a high-risk issue but it is one that we need to address. I am not sure whether the Clause 2 provisions, which are drifting towards the character of Henry VIII provisions, are necessarily the kind of things that need to be hidden away or carried out by executive order. Beyond this legislation, when reporting is carried out and changes are proposed, the widest possible consultation should be available and the opportunity for this House and the House of Commons to debate any changes should be made available.

I recognise that this legislation is, unfortunately, necessary. If we were not in Brexit mode, we would probably not need to have it. However, I would like to think that it is one of those pieces of legislation that could become irrelevant because we could stay on. But until such time as we know that for sure, it is essential that we give the Bill the closest attention. I hope that we can produce something a wee bit better than what we have. It is not a terrible Bill that we will spend our nights awake over the Recess worrying about. However, there is scope for improvement, and it is incumbent upon us to improve it when we get the opportunity to do so.

5.24 pm

Lord Teverson (LD): My Lords, I thank the Minister, particularly for his explanation at the beginning, not least that the Nuclear Safeguards Bill is not about safety but about security. I look forward to the Government's nuclear security Bill, which will look after safety in due course—the whole of this area is perhaps a little confusing.

On the intervention made by the noble Lord, Lord Warner, I am relatively relaxed about the Bill and the transfer of medical isotopes. However, he pinpoints the right issue with the Bill, which is that out of Euratom we are then out of the observatory, which is there for emergencies when supplies of these difficult commodities are short. That itself is probably a key area as regards the Euratom aspect.

I welcome a number of things from the Government on the Bill. The Government, unlike with the shambles of the EU negotiation, are getting on with it, and

[LORD TEVERSON]
I give them credit for that. In comparison with the other negotiating stream, they are positively better. I also welcome the Minister's undertaking he made in his opening remarks that we would not go for IAEA standards but for the continuity of Euratom standards. That is an important point—if only we had that guarantee of alignment elsewhere, perhaps in the negotiations. I also welcome, as did the noble Baroness, Lady Neville-Rolfe, the advance publication of the draft regulations. Therefore it is good from all those points of view.

As my noble friend Lord Fox mentioned, the Euratom treaty and organisation is around research projects. I was privileged to visit Culham a couple of weeks ago with the other members of the EU Energy and Environment Sub-Committee that I have the privilege to chair. It is important that the work that is going on there—the co-operation, future planning and the promise that we hopefully have from the project as it moves on to ITER, into France and then on to a demonstration project—is here in the United Kingdom and co-operates on research projects as part of Euratom.

The Euratom treaty is also around the movement of materials, which I will come back to later on, and, as my noble friend Lord Fox said, around a freedom of movement for individuals. When we remove ourselves from the Euratom treaty, we will then stop those freedoms that come with the treaty, and I very much hope that the Home Office will take note of the fact that we need to have that freedom of movement for nuclear experience to continue. That is not just about the most professionally advanced people but about people at all levels. For instance, I know that one area that EDF has been particularly concerned about at Hinkley Point is steel fixers, as the lack of that key skill could stop that project going ahead. So it is not just the PhDs and the nuclear fusion research, but we need to keep that freedom of movement right the way through the nuclear chain.

However, the thing that really concerns me, which has been mentioned by other noble Lords, is timing. The deputy director of the Office for Nuclear Regulation has already been quoted a number of times. I find it very difficult indeed, both from her evidence and that of others, to see that we can have an approved organisation—the technical term for what we need is a voluntary offer agreement—with the IAEA by the time we leave Euratom on 29 March next year. It seems that there is a high risk that we will not meet that. That has a number of implications for our international relations. It particularly means that, if that is not the case, we will be unable to fulfil our obligations under international treaties and the legislation of other countries with which we deal.

If the Minister answers one question I ask today, this is the one I would most like him to answer. Let us suppose that we get to 29 March next year and do not have the voluntary offer agreement with the International Atomic Energy Agency. If we manage to get an agreement with Euratom that we can subcontract and still work those safeguarding arrangements through Euratom, will the IAEA agree to that? I would be interested to understand from the Minister whether we have an agreement with the IAEA on that, because it seems fundamental.

We cannot guarantee that we will have that agreement with Euratom, however. Why? Again, I share the view of the noble Baroness, Lady Neville-Rolfe, about extending our membership of Euratom instead of having a transitional agreement; it would make everything so much easier. The referendum did not cover Euratom, so politically it is not an issue. It is not a given, however; the situation could be more sensitive than we might think, because Germany and Austria are often difficult about the Euratom treaty, in areas including future agreements.

Finally, on nuclear co-operation agreements, I went through the Commission's website earlier today to see how many such agreements Euratom had to which we were privileged to be party. The list covers Australia, the Russian Federation, Japan, Canada, the United States of America, Switzerland, South Korea—strangely, it was described as the Korean peninsula—Argentina, South Africa, Kazakhstan, Ukraine and, of course, the International Atomic Energy Agency itself. To continue the 20% of generation that we already have and complete the construction of Hinkley Point and the remainder of a new nuclear programme if we have it, we need to replace significant numbers of those nuclear co-operation agreements very quickly, before we actually leave the Euratom treaty. That seems an extremely tall order, and I would be interested to hear from the Minister exactly how we intend to achieve it.

5.32 pm

Lord Carlile of Berriew: My Lords, given that I intend to address my remarks to the issue of medical isotopes, I am grateful to the Minister for talking about it so fully in his introduction to the debate. Like all your Lordships, I trust implicitly his integrity and intentions; that goes without saying. However, I have some misgivings about the lexicon that he has been given, which led to his using particular words in his opening remarks. Having said that, I express my thanks to him, to his colleague in the other place and to the Bill team, which has worked hard to inform noble Lords about the Bill.

I have heard more often than I can remember—it is merely a mantra—that this Bill is about nuclear safeguards not nuclear safety. If you say it often enough you may well come to believe it, but I suspect that we would all believe something quite different when we did so. I understand the reason for that distinction: it is entirely political, of course, because it gives the Government the excuse for leaving a significant section of the industry out of the Bill. I am afraid that it is no more than a semantic explanation, and I am sure that the distinction would be totally lost on the broader public. For example, if significant detriment were caused to staff and patients because of a problem with radiopharmaceuticals brought into a hospital from a European Union country, I doubt that the distinction that we have been given would be regarded as mitigation in the public inquiry that would ensue following such an accident. Concern, which I share, has been expressed strongly among professionals, including the Society for Radiological Protection—the SRP—of which I have the honour to be patron. It says that the supply of imported radiopharmaceuticals is implicitly part of the Euratom arrangements that have been reached over years, as I shall explain.

I am advised that the isotopes used for the treatment of cancer are not produced in the UK at present. That means that we rely on imports from the European Union and elsewhere. I think that the Minister mentioned South Africa. My understanding is that the supply from South Africa is currently not available because of safety issues there, although supplies are being brought in from Australia and America, as well as from the EU. However, the important point is that those products have a half-life of around three days. As your Lordships will know, that means that the effective radioactivity in the product falls by a half in about three days. As a consequence, the intended effectiveness of the medication is reduced and indeed in many cases destroyed.

The industry believes—and I support it—that the continued availability of such medical isotopes in the best condition should be encompassed in this Bill. It is just not good enough to say that this will be part of the broader negotiations about the UK's future relationship with the European Union. That is uncertainty on toast and it is not acceptable. Although the Minister has said—I have heard this in meetings—that this issue has nothing to do with the Bill before us, I am told, and accept, that it does. For example, a shipment of isotopes falls within Council Regulation (Euratom) No. 1493/93 as amended—it is still in force as amended. This regulation is designed to safeguard health workers and the general public against ionising radiation, and that is stated as its purpose in the recital of the regulation.

Although that regulation recognises the removal of border controls within the EU, in order to protect the public, including those who receive medical isotopes, it provides a notification system. Not only has it become a safeguarding system but it is a system that has been used to ensure the regular and steady supply of fresh medical isotopes. It provides for the safe and speedy transfer of the products concerned. It involves so-called "competent authorities" in each country—in the UK the main authority is the Office for Nuclear Regulation—which devolve responsibilities to others, such as the Environment Agency, and, importantly, its counterparts in Scotland and Wales. There is a devolution issue here too, although that seems to have been overlooked.

The Government say that this part of Euratom's statutory activity can be consigned to those later and general negotiations about the transfer of goods and services between the UK and the EU—the same category as applies to, for example, the importation of processed croques-monsieur into the United Kingdom. I do not accept that; it is much too important. That promise—if it be a promise—provides no assurance whatever for continuity. Indeed, it raises the prospect of UK patients, if they can afford it, having to travel for this kind of treatment to France and Germany, where such isotopes are manufactured. I suppose that it also provides the insurance industry with a potential bonanza, cashing in on a new form of insurance that enables those who take private medical insurance to buy treatment in countries abroad as part of their policy.

Major suppliers of radiopharmaceuticals in the European Union have confirmed that the current arrangements, which are made, so they tell us via Euratom, ensure the timely supply of material from the point of manufacture to patients in the UK. That includes such urgency that the product can be delivered and then reporting arrangements can be used retrospectively in cases of urgency. It is a very important part of medical treatment.

There is also the issue of resilience of supply of medical isotopes. The UK, due to the work of the European observatory, is in a better position to be able to rely on a fair share of radiopharmaceuticals from Europe without fear of loss of supply. But the continuation of these advantageous arrangements—they benefit hospitals such as the Royal Free, University College Hospital, London and other places where important cancer treatments are carried out or clinical trials are being performed—is critical for such places, given that we manufacture none in the UK and suppliers in South Africa, as I said earlier, and also in Canada have major production issues.

There are issues that worry the industry around three other matters. First, the potential uncertainty of UK participation in future Euratom research projects that engage British academics and others will either reduce UK-based expertise or, worse, drive most nuclear physicists to go and work in other countries. Secondly, there is the designation of professionals as medical physicists. The recognised standards entitling scientists to be designated as medical physicists are arranged under the umbrella of Euratom, with a requirement for all relevant clinics to employ such a person. Thirdly, standard designations apply to medical isotopes just as they apply to any other goods. Those are currently agreed on an EU basis, which is based on conversations within Euratom.

There is an overwhelming case for provision in the Bill for the medical isotope matters to be the subject of assurance for the future. They should be included, and I look forward to debates in Committee on that subject.

5.42 pm

Lord Whitty (Lab): My Lords, my noble friend Lord O'Neill referred to the Bill as an unfortunate necessity, but it is only necessary because of choices the Government have already made. We could have remained in Euratom while leaving the other institutions of the EU. Euratom was originally in a separate treaty and remained a discrete part of the consolidated treaty. It would not have been cherry-picking for us to remain. The EU would not have objected. There is admittedly a role for the ECJ in Euratom's institutional structure, but that has never been used. It would have been a sensible and safe thing to do to say at the beginning of the post-referendum process or at the point of triggering Article 50 that we were withdrawing from the other institutions but wished to remain within Euratom. It would have been the logical thing to do, and it would also have been by far the safest thing to do.

In the Bill, we are dealing with the rules that govern the use and proliferation of what is probably the most dangerous material handled by mankind, and their enforcement. Frankly, the boundaries between civil and potential military use need always to be absolutely clear and shared within and between nations. That has not always been the case in the history of the nuclear industry, nuclear power and military hardware.

[LORD WHITTY]

The global system under the auspices of the IAEA is vital but is not watertight. Over the years there have been a number of reports about fissile materials going missing in the sense that they have been unaccounted for. Usually, the authorities have reassured us that it was an administrative glitch and not a real diversion of these vital materials to North Korea, to terrorist organisations or to other countries wishing to join the nuclear powers. But that has not always been certain. The role of the Euratom operation in preventing proliferation has been vital and is one of the tightest parts of the global system. Under Euratom, the tightness of the safeguards has been maintained. It has monitored nuclear sites and trade to ensure security of operations and transfers within and beyond Europe, and as the noble Lord, Lord Teverson, said, it has also been responsible for the third party treaties. We will have to replicate those treaties post our leaving the EU.

It is true that the Minister has distinguished between safety and safeguards, but as the noble Lord, Lord Carlile, has just implied, it is not always a clear distinction and not a clear one in the minds of the public. It would certainly not be a clear distinction if an incident actually happened. By and large the HSE and latterly the ONR, along with the organisations in this country to which they have delegated powers, have enforced that safety. However, we also need international and particularly cross-European co-ordination. Hitherto, Euratom has helped to ensure that co-ordination and indeed the UK's own compliance with the various international conventions governing nuclear materials, nuclear safety and non-proliferation.

Under the Bill it is true that the UK through the ONR will continue to meet IAEA standards, but the reporting and monitoring standards of the IAEA are different and on the face of it less rigorous than those of Euratom. I was grateful to hear what the Minister said about maintaining Euratom rather than IAEA standards and I hope that somehow appears in the final version of the Bill. However, all of this will place severe pressures on the ONR, an organisation that has performed well but, frankly, has had its resources cut by more than two thirds in the current spending round up to 2020 for its existing responsibilities.

I would be grateful if the Minister set out clearly, before the Bill completes its passage through this House, the resources, staffing and level of qualifications of staff for the ONR that will be needed for it to carry out its new obligations. I understand that currently, 40 Euratom safeguarding staff are based in the UK and focused on UK nuclear institutions while at the moment only eight ONR staff have professional safeguarding qualifications. How many extra staff will the ONR need, or will it sub-contract the work back to Euratom? I hope that any new migration package will not stop those staff coming in. These questions are vital if we are to establish that the ONR will be in a position to carry out these new duties. There are also duties relating to what is currently Euratom equipment. Are the Government going to acquire that equipment for the ONR, and will it be a cost to the ONR and the Exchequer? What will be the future cost of its decommissioning and replacement? How will all this be taken into account on the basis of a significantly reduced ONR budget and a shrinking expertise base, which is what we are inheriting?

The phrase "Euratom equivalence" requires some further explanation in the context of the regulations, as does the ONR's independence. The UK Government, via the ONR, will be inspecting their own provisions regarding the civil and military interface, for example. I think I can say without severely breaching the Official Secrets Act that when I worked for the Atomic Energy Authority, well before Euratom, those interfaces were not always clear. I shall say no more. ONR independence from government is absolutely essential; otherwise, the Government will effectively be marking their own homework in this vital area.

The Bill does not cover all the other functions of Euratom, but even the safeguarding provisions stray into other areas. For example, another key Euratom function has been the facilitation of cross-border supply chains. Since much of the UK nuclear industry is owned overseas and certainly has overseas suppliers, primarily French, these international supply chains are key. I, and I expect other noble Lords, have received evidence from EDF that spells out how important this seamless supply chain was in dealing with a very dangerous emergency situation at Sizewell B a few years ago, and now in fulfilling the effective delivery of the new Hinkley Point station. If we are absent from not only Euratom itself but its agencies—the observatory referred to by the noble Lord, Lord Teverson, and its supply agency—the monitoring and support for these supply chains will inevitably diminish.

The Minister might say that this is irrelevant to the direct subject of the Bill, but others have already mentioned the R&D provisions under Euratom, which spill over into safeguarding. I recognise that much R&D is international. I have probably related this in the House previously, but in my early youth in the 1960s—prior to Euratom even being invented, or certainly the UK being a member of it—I worked at Harwell and Culham. Noble Lords might find it difficult to believe, but I received security clearance to the highest level. It took about three passes to get to my office. But one morning I was in early and I heard this babble outside in the corridor, which was all in Russian. Harwell had invited a whole crowd of Russian experts and scientists, because science is international. This was at the height of the Cold War.

Some international collaboration is open, but Euratom has channelled expertise and money into projects that have already been referred to, which include the important work on fusion technology. The Minister may try to downplay the importance of Euratom in this, but it is all part of the picture of European co-operation. Before we finish with the Bill, we need to get a clear indication of the Minister's understanding of and position on the JET and Torus fusion projects, and other R&D programmes, when we leave the EU and Euratom.

The noble Lord referred to progress being made on Euratom in the Brexit negotiations. I would be grateful if he could expand on this and how, in agreement with our European ex-partners, we will liaise in future. Are the Government at least seeking associate membership

of Euratom and its agencies? I assume from what the Minister said that the answer to that is no, but it is possible. Norway is party to some of these.

The recent EU document suggests that we will be absent from the agencies as well as the institutions of the EU, not only after the end of the transition period but from the beginning of it. That means that by March 2019, we must beef up the operation of the ONR, reach an understanding with the EU and ensure that an adequate alternative UK regime is recognised internationally and co-ordinated in new bilateral treaties replacing those currently covered by the EU. That stretches credibility. While there are aspects of the Bill that I welcome, the Government need to stop pretending that all of this can be done. We need to ensure that the endpoint of this process, if we are leaving Euratom, is at least the endpoint of the transition period. There is no chance of us meeting it by what is effectively October, or even by March 2019.

I recognise that, in the circumstances, the Government have created the need for the Bill, but there are many queries still to be faced. In particular, I would like a justification for what appears to be an impossible timetable.

5.55 pm

Lord Broers (CB): My Lords, I realised when I saw my position in the batting order here that most of what I was going to say would have already been said, although I am somewhat astounded by what is coming out just now—what the noble Lords, Lord Whitty, Lord O'Neill and Lord Carlile, said—that we may not have had to get into this mess. I had thought that our membership of Euratom was, legally, tightly linked to our membership of the EU and that it was inevitable that we would have to leave Euratom. If that is not the case then somebody has made a very major blunder. I hope the Minister will be able to sort out for us whether we needed to leave Euratom, because I cannot imagine anybody supporting that.

I decided to speak today because I am convinced that nuclear power is going to be essential if we are to meet our carbon targets, and to sustain our nuclear power in the long term we are going to need a nuclear R&D programme. To explain my interest, I have spent a lot of time supporting nuclear R&D in this House as a past member and chairman of the Science and Technology Select Committee. I am therefore well aware of the importance of our membership of Euratom and of the need, after Brexit, to find the means to sustain what that membership provides. Related to that, I also retain the hope that the challenges of harnessing fusion power will in the end be met, and our membership of the international projects driving fusion forward also depend on our membership of Euratom. Both the future of nuclear R&D and fusion research are closely related to our membership of Euratom.

I realise that the Bill addresses only the issue of nuclear safeguards. I found this early in my reading, in a simple paragraph entitled, "What the Bill doesn't cover":

> "The Nuclear Safeguards Bill only makes provisions for Euratom's role on nuclear safeguards. Euratom however has a number of functions including regulating the civil nuclear industry, disposal of nuclear waste, ownership of nuclear fuel, and research and development".

I would rate those things as outranking our safeguards by about 10 to one, but the Bill dodges them. It is being thrown into that overall confusion of what we are doing to negotiate our position in the EU.

Getting back to the Bill, I support the Government's two-track approach to providing safeguards for our nuclear plants, but I naturally hope that we can follow the first track and find a way to remain a member of Euratom, rather than having to rely on the alternative of providing the capabilities ourselves. The Bill provides the means of establishing our own capabilities in the area of safeguards. This is going to be expensive—even this, as has been realised—and I believe that new inspectors are already being hired and trained. However, it is not going to be possible to train the inspectors to the level that they can maintain the current high standards in the long term without maintaining a competitive and up-to-date research and development programme. Nuclear technologies, along with all other high technologies, are going to continue to change rapidly. Advanced reactor designs are already being worked on, as are small modular reactors, and the knowledge of how to maintain safeguards for these new systems will require an up-to-date understanding of their operation. This can be obtained only through direct involvement with the engineers who actually design and build these systems. Either we have these engineers working on our projects, or we are members of the international community—presumably Euratom and perhaps the IAEA—and have access to the latest data from other countries.

As I have mentioned, there is also the vital issue of nuclear fusion. As we all know, we are leaders in this technology through our work on the Joint European Torus at Culham. For more than three decades we have maintained world leadership in this research. In addition, we have been major partners in ITER, the large international project in the south of France, where a fusion reactor capable of generating electricity is being built. At Culham we have also pursued research into new, smaller fusion reactors. These are known as spherical tokamaks, where the reactor chamber is not a torus, or doughnut, but spherical. This geometry has been shown to be three times more efficient and there are hopes that this may make smaller reactors than ITER feasible. There is also a commercial company in the UK developing this type of reactor. If we are forced to leave Euratom, we will lose the funds necessary to continue all this vital fusion energy research, which would be a major tragedy, perhaps not in the "dagger in the heart" category but almost there. We lead the world in precious few scientific or technological fields but this is one of them. It would be a complete tragedy if we jeopardised this project in any way.

In conclusion, I ask the Minister to reassure us that the Government will give the same priority to maintaining a competitive nuclear R&D programme as to establishing our own ability to provide the safeguards necessary to maintain our existing and already planned nuclear plants. This will be essential if we are to be able to assess our own power plants in the long term and to remain competitive in fusion research, which has the potential to solve many of the world's energy problems.

6.01 pm

Lord Lea of Crondall: My Lords, first, I will refer again briefly to the question I raised in my earlier intervention about the umbilical—or otherwise—relationship between EU membership and Euratom membership. I am endeavouring merely to ascertain the objective truth about this matter. It cannot be a matter of opinion; it must be somehow a matter of fact. I hope that the Minister, if he cannot give a more definitive answer today, will put a letter in the Library giving the facts of the matter, because I think it may be more complicated than either he or I have stated, but it needs to be clarified.

I will mention just one relevant anecdote. I happened to chair a meeting in 1961 at the Cambridge Union for Seán Lemass, the Taoiseach—the Prime Minister of the Republic of Ireland—and he took the opportunity to announce to Irish TV Ireland's accession to Euratom. Of course, it was not until 1973, 12 years later, that Ireland, along with the UK and one or two others, actually joined the EEC. So there was no umbilical connection at that time and I think the degree of umbilical-ness is perhaps being exaggerated. The registration regulations may well have changed since then but I am not sure how umbilical it is—or the opposite. Unless I am totally wrong, I suspect that I am following a train of thought which the noble Baroness, Lady Neville-Rolfe, was hunting for on the same point.

It is clear from the debate that there is a strong feeling in both Houses that we should be seeking as a minimum some form of associate membership of Euratom. I do not know whether there is such a thing. My view is that there is a clear option in principle if we stay in the EEA.

Another point that I would like to mention which has not yet been raised, but been implied by many, is that there is a very strong multinational dimension to all aspects of this, not only in the scientific co-operation but in the generation of power. We only have to think of EDF, the Chinese, the Japanese and so on. We are inevitably under the umbrella, and one of the strongest umbrellas for technical co-operation on standards is Euratom. As many noble Lords have said, the Office for Nuclear Regulation will do its best but, according to the note that I have, the Government have cut the grant to the ONR between 2015-16 and 2019-20 by 70%. How can it deal with all this extra work?

I shall not go into any more detail about the red lines on the European Court of Justice, because they are very tangential to this decision. However, if the UK were to leave Euratom, we would need to have a properly resourced regulatory framework in place by exit day. Everybody has pointed out the difficulty of doing that. Euratom currently employs about 160 staff, 25% of whom focus on UK installations. Without Euratom's infrastructure and resources that work is likely to fall to the Office for Nuclear Regulation, which currently employs eight professional staff. Those are relevant numbers. We are placing extra responsibilities on the ONR but are not providing extra resources to fulfil them or, as far as I know, holding any open conversations, certainly with the trade unions, about how the regime would be funded.

I have a couple of specific points to put to the Minister, perhaps for response later. First, have the Government given any thought to the liability that they are taking on with regard to purchasing or obtaining existing Euratom equipment in UK facilities? By taking ownership, would that then make the ONR and/or BEIS liable to facilities for the decommissioning, removal and disposal of that equipment were it not to be used or replaced? The decommissioning, removal and disposal of contaminated equipment is not easy and will come with a price tag. Secondly, what is the purpose behind Euratom equivalence, which my noble friend Lord Whitty mentioned? Who will the ONR be expected to satisfy by performing Euratom-style inspections using video surveillance and equipment to verify that nuclear material has not been diverted from peaceful purposes? It is already known that the UK has a weapons programme, and we already have security cameras and portal monitors mounted on our sites to protect against theft and neutron monitors to provide a safety function. What benefit is there to the UK in providing our own internal verification of our own UK declarations? Those measures will not be recognised by bodies external to the UK as we are self-verifying, therefore not providing any independent verification.

6.08 pm

Lord Warner: My Lords, I have been around government as a civil servant, special adviser, Minister and parliamentarian for about 50 years, and during that time I have been involved in a lot of legislation. I cannot recollect a Bill so reckless and so alienating to a major UK industry as this one. The briefing from the Nuclear Industry Association, representing 260 companies, is damning. It does not agree with the Government's position that in law we have to leave Euratom on exit from the EU in March 2019, which probably rather annoys the Minister, and it does not believe that this Bill will have us ready to do so in time. It wants a transition period if the Government insist on leaving Euratom, and if we cease to be a member of Euratom it wants some form of continuing relationship. As other noble Lords have said, there is a real risk that our role in international R&D in this industrial sector will be seriously damaged by leaving Euratom, and how do we participate in the international nuclear market outside Euratom? These are big questions which the Minister and the Government do not seem to have considered.

The Government virtually ignored the NIA's views and advice during the Bill's passage through the Commons. To add insult to injury, the Government have not come clean on how the new UK safeguarding arrangements will be funded. In these circumstances, most normal Governments would not plough on with legislation against a major industry's advice, especially when that advice is supported by a major overseas company—EDF—with which the Government have recently contracted to deliver a major nuclear infrastructure project at Hinkley Point.

But then they are no ordinary Government. They are, as the noble Lord, Lord Lamont, memorably described an earlier Conservative Government,

"in office but not in power".—[*Official Report*, Commons, 9/6/93; col. 285.]

We have this Bill because the Prime Minister cannot face down that sect within the Conservative Party which was rather entertainingly described by the noble Lord, Lord Macpherson, in a newspaper article this week as "latter-day Jacobins". I thought that was a bit unkind to the Jacobins, because some of them were quite entertaining. This sect goes into spasm at the very mention of the European Court of Justice, and Euratom is just unlucky enough to be within the jurisdiction of the ECJ.

So, according to the Bill, we have to leave Euratom at 11 am on 29 March 2019, ready or not—no matter that the ECJ appears never to have pronounced on any aspect of Euratom's activities since the UK joined; no matter that the European Union (Withdrawal) Bill provides for UK courts after exit day to take account of ECJ jurisprudence in making their judgements; no matter that we have not yet fully implemented the latest EU directive on nuclear safety standards, which we were involved in negotiating; and no matter that we cannot discharge the standards for nuclear safeguarding to the same level as Euratom before the currently specified exit date.

Last September, in her Florence speech, the Prime Minister said that the status quo should continue for what she called,

"an implementation period of around two years".

Yet when the Opposition tried to amend the Bill in the Commons to give effect to this approach by staying in Euratom after March 2019 for a transition period of up to two years, the Government marshalled their forces to vote it down. This is despite the fact that the Government will not be operating at the same safeguarding standards as Euratom because they will not have sufficient inspectors in post. I shall be putting down an amendment at the close of this debate to reintroduce a transition period for this sector, irrespective of what happens on wider Brexit issues. I hope that others across the House will support such an amendment.

I turn now to the subject of medical radioisotopes, which others have discussed and which, it is important to emphasise, are vital for NHS diagnosis, treatment and research. I have been seeking clarification on the role of Euratom in regulating the use and disposal of these isotopes from Ministers. In parliamentary replies from the Health Minister, it is clear that the use and disposal of these materials are governed by a set of standards that,

"have in some cases been informed by Euratom standards".

Despite my best efforts, it is far from clear what happens to these safeguarding standards for NHS patients and staff when we leave Euratom. As I understand it from the Minister, the Bill will not cover medical isotopes—nor, as I also understand it, will the ONR have any responsibility for them. So, as things stand, at 11 am on 29 March 2019, the overarching Euratom framework of safeguards that seems to have some relevance to the use and disposal of medical isotopes will simply disappear. In its place, a mishmash of UK agencies will be involved. This seems to be a diminution in the safety reassurances for NHS patients and staff that exist now. If I have got this wrong, I should be grateful if the Minister and his health colleagues would explain to us all in writing why it is not so before Committee.

Despite the Minister's attempt at reassurance, I want to return to the issue of security of supply of medical isotopes, which the noble Lord, Lord Carlile, elegantly exposed. Noble Lords know that these isotopes have a very short effective life—a matter of a few hours, in some cases—so they have to be delivered to the end user very quickly. They are critical to many treatments of serious conditions, to diagnostic applications and to furthering research into new treatments. Their importance is growing for use in medical advances at a time when the sources of supply of the raw material—ageing nuclear power stations—are diminishing.

The UK has no domestic supplier. About 60% of our supply comes from the EU, and the remaining 40% comes from elsewhere but may arrive in the UK via an EU supplier. We know from past experience that there can be supply problems with these isotopes. That is why the Euratom observatory was set up—to help with supply problems for EU members when they arise. My understanding is that we lose that help when we lose Euratom and, as far as I can see, there is no game plan for replacing it. Moreover, being in the EU customs union makes it easier to ensure1 a "frictionless" —to use that phrase—passage of isotopes from supplier to UK end user. However, the Government have rejected being in either "a" or "the" customs union with the EU from exit day next March. Michel Barnier has made it clear that the Government's current Brexit plans would create "unavoidable" barriers to goods and services. I suggest that this is seriously bad news for the supply of medical isotopes.

In the last few days the Government have published what I can only describe as a somewhat fanciful partnership paper on future customs arrangements. Even if the proposals were a practicable basis for an agreement with the EU, which they are not, they certainly could not be put in place by next March across 28 countries. So my question for the Minister is: how are the Government going to safeguard the timely access of NHS patients to medical isotopes after next March? Again, perhaps he could write to us with an explanation before Committee, as I shall certainly be tabling an amendment on this issue as well.

This is an inadequate and ideologically driven Bill that damages established safeguarding processes and procedures that we were involved in shaping and keeping up to date. Even if it were justified, it should not be implemented in such a rapid timetable. Moreover, because of the Government's totally misguided and fantasy approach to the future customs relationship with the EU, the timely supply of medical radioisotopes to the NHS and its patients will be put in great jeopardy. If the Government are not going to listen to industry's serious concerns about the Bill, I suggest that it is up to this House to do the job for them.

6.18 pm

Lord Judd (Lab): My Lords, I should declare a couple of interests. I am a member of the Cumbria Trust, which has considerable concerns about some of the issues being discussed today. I also live 12 miles north-east of Sellafield, which always reminds me that at school I was taught that the prevailing winds were south-west.

[LORD JUDD]

The Minister was very firm at the briefing meeting that he kindly arranged before the Bill was under consideration here—and that meeting really was very much appreciated—that the Bill was about safeguards, not safety. The Minister has a style about him, and he was at his firmest in saying that. I have a great affection and considerable regard for the Minister. I have more respect for him perhaps in the sphere of marmalade than in political matters.

It just will not wash. There are no dividing lines: civil, military, safeguards and safety all overlap. They all have implications for each other. To think that one can take part of this and put it in a watertight compartment is, if the Minister will forgive me, nonsense.

We are all pretty disturbed—that has come across clearly in the debate—that we are dealing with a situation that is apparently an incidental consequence of deciding to leave the European Union. We are dealing with the utmost grave issues here—issues which affect not only current society but will affect men, women and children for thousands of years to come. They are profoundly grave and significant issues. To think that we can somehow rush this thing through in legislation is a betrayal of future generations. We must put it under very firm scrutiny, and we must be satisfied.

As if that were not enough, the fact that we are a nuclear power with our own nuclear deterrent again puts a heavy responsibility on us. When the non-proliferation treaty was secured, we gave the most solemn undertakings about our responsibilities in these spheres. We therefore have a duty to fulfil them.

I share with those who have spoken deep anxiety about the belief that national arrangements for inspection can in any way be a convincing substitute for international arrangements. It is crucial for the world—and for our own people—to see the independent judgments and assessments that come from international arrangements. It will become a cosy, closed circle in which things may tend to slip. So we must do our best to ensure that whatever is put in place is not open to any kind of doubt. Personally, I do not see how we can do that, but we must try.

It is also clear from what has been said in the debate that, because of what I just said and for other reasons, we should remain as close to Euratom as possible. We should not be defeatist about associate membership of Euratom, and I would like to think that the best legal brains available to the Government are working on how we do this, as distinct from why we cannot. In my experience of responsibility in organisations, it is crucial to find the lawyers who can help you to do what you want to, as distinct from those who tell you why it cannot be done.

The time available is clearly ludicrous, and some special arrangements will have to be made. But, if we are to have special arrangements with IAEA and voluntary agreements, as has been mentioned, we need to be clear about how they will be effective in this transitional phase, because I do not believe that the deadlines we have been asked to accept are feasible.

At the moment, there are eight professional safeguarding staff employed by ONR, compared with 40 at Euratom, focused on UK issues. We are asking for this to be undertaken with our British arrangements at a time when there has been a 70% cut in government grants to ONR from 2015-16 to 2019-20. There is also the issue of whether we have the necessary expertise. I recall that, some time back, when we were considering new legislation on nuclear power, the Government's argument was that one of the reasons we needed to have foreign interests coming into the process was that we simply did not have the expertise that was available to those foreign experts. If that is real—it is a very worrying thought—and if it applies to the generation of nuclear energy, how much more real does that argument become to monitor effectively what we are ourselves doing? Parliament simply has to be satisfied that arrangements involving the IAEA, voluntary agreements and the additional protocol are as fool-proof as they can be—although I remain sceptical as to whether that is possible.

The noble Lord, Lord Fox, spoke about the costs and consequences of taking over the ownership of Euratom facilities and the subsequent costs of decommissioning. We really will need very convincing arguments from the Minister on all that. I particularly appreciated the speech of my noble friend Lord O'Neill of Clackmannan. In this context, I am interested that the Department for Business, Energy and Industrial Strategy has itself produced a number of—intended to be, I think—helpful factsheets. They have been produced in the context of our deliberations. I see that one on transport and waste states:

> "The UK will continue to uphold its responsibilities in respect of spent fuel and radioactive waste. Appropriate arrangements will need to be agreed between the UK and the EU in relation to the status of radioactive waste and spent fuel generated by the UK but currently situated on EU 27 territory and spent fuel and radioactive waste generated by the EU 27 but currently situated on UK territory. UK legislation and standards in this area will continue to be informed by recommendations of the International Commission on Radiological Protection, the Joint Convention on Spent Fuel and Radioactive Waste, and the safety standards of the International Atomic Energy Authority".

These are vital considerations. But, in dealing with waste, let us please remember that there are two categories of waste at least. There is the existing waste, which is a time-bomb ticking away, and there is future waste, which has implications for thousands of years ahead. We are involved in a situation that is not only grave but is of immense, incalculable historical significance for the future. We cannot rush it or botch it, and it will need a great deal of careful scrutiny by this House.

6.30 pm

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I actually find it encouraging to see this important Bill arriving in your Lordship's House so early in the year. In the informative briefing given to us by the Ministers and officials last week, we were told that many issues identified in the position papers published last summer are well on the way to being resolved, and this has to be good news. It is most important that there is a seamless transfer in safeguarding arrangements for the non-proliferation of nuclear materials, as well as for continued co-operation in nuclear research and the mobility of workers and trade in this important sector. Obviously, there are two remaining political issues which are material—namely, those that relate to

a transition period or, even better, an extension of our membership of Euratom, as suggested by my noble friend Lady Neville-Rolfe, and the Henry VIII powers in Clause 2, which will allow the Secretary of State to amend existing Acts as new international agreements are negotiated. But other issues, such as the transfer of Euratom-owned equipment, the status of existing contracts between member states and the UK, and the presence of fissile material in the UK which is owned by another member state, are, we hear, well under way, and I am sure that we all look forward to being updated on their status.

We leave Euratom on 29 March next year, and it is essential that new reporting and verification processes are in place on the date. We need to have the correct number of inspectors recruited and trained by the Office for Nuclear Regulation, and I understand that we already have half the number in training and a further recruitment round is under way. Again, I look forward to my noble friend the Minister updating us on this issue and its impact on the budget for the ONR.

Of course, while we may no longer be a member of Euratom, many of the standards it sets are legally binding and arise from obligations to which the UK is in any event committed under the International Atomic Energy Authority, of which we were a founder member in 1957. But I welcome my noble friend's commitment to adhere to the higher standards of Euratom. The UK must continue its leading role in the development of international security and safety standards, irrespective of our future relationship with Euratom. For this industry is extremely important to the UK; it employs 66,000 people, and we are a world leader in nuclear fusion technologies and are committed to maintaining this position. I strongly believe that putting our regulatory house in order at an early stage will generate the confidence necessary to attract further investment in the industry. I am reassured that the pace of negotiations with other member states will enable this to happen, for we need to see advances in nuclear technology—for example, into a new generation of small modular nuclear reactors, which may represent a cheaper and quicker way to generate the new, low-carbon power that the country needs.

Finally, I understand entirely that this Bill is concerned with safeguarding, not safety arrangements, and with a new legal and regulatory framework. Medical isotopes do not fall within the scope of the Bill, nor indeed of this department. However, practical arrangements for their continued import to the UK do not appear to be covered anywhere. Most are imported from eastern Europe and many have a shelf life of only two weeks. The potential disruption to their supply is causing concern to cancer sufferers and to the medical profession generally. I take this opportunity to thank the Minister for suggesting that he arrange a meeting between BEIS, the Treasury and interested parties to discuss this important area of real concern.

6.34 pm

Viscount Hanworth (Lab): My Lords, the Nuclear Safeguards Bill is slim by the standards of Brexit Bills, but this belies the importance of the issues it addresses. The Bill makes provisions for the eventuality that the UK will leave the European Atomic Energy Community, or Euratom, to give its common name. In its place, we should have to establish a new safeguards regime to oversee the security of our nuclear materials. Euratom has provided much more for us than an inspection regime for ensuring that radioactive material does not fall into the wrong hands. It governs the supply of fuel and all the nuclear engineering materials and equipment that come to us from abroad. It facilitates international exchanges of personnel trained in nuclear technology. It governs the acquisition and supply of medical radioactive isotopes and it funds an extensive nuclear research and development programme.

Euratom is governed by the International Atomic Energy Agency—the IAEA—which is an organisation affiliated to the United Nations. It mediates our relationships with third-party countries. On leaving Euratom, we should have to establish individual nuclear treaties with each of those nations. Even now, there remains doubt as to whether it is necessary, in any case, for the UK to sever its connection with Euratom. The legal opinions on the matter have been divided. It is clear that the Ministers most closely involved are far from enthusiastic about the prospect of this divorce.

The die was cast at the beginning of 2017 when, in a flurry of Written and Oral Statements, the Government asserted that there would be no room for compromise in exiting the European Union. Thus, in a speech on 17 January, the Prime Minister asserted that there is to be no,

"partial membership of the European Union, associate membership … or anything that leaves us half-in, half-out …We do not seek to hold on to bits of membership as we leave".

Euratom is an international organisation founded in 1957, as we have heard, and is legally distinct from the European Union. However, since the European Court of Justice plays a marginal role in its affairs, Euratom was judged to be half in the European Union and, therefore, an organisation that the UK is bound to leave.

During Second Reading of the Nuclear Safeguards Bill in the Commons on 16 October 2017, the Minister Greg Clark emphasised:

"Triggering article 50 of the treaty on European Union also requires triggering article 50 on membership of Euratom".

He also asserted:

"That is not just the Government's view; it is the European Commission's view, too".—[*Official Report*, Commons, 16/10/17; col. 618.]

He proceeded to quote a declaration to this effect that had been made in the European Parliament. It appears that the European Commission and the European Parliament have been happy to go along with the view of the UK Government. The Government's insistence on a clean break from European institutions has led to a perverse outcome that we are now coming to regret. It is arguable that, had we taken a different approach at the outset, we would not now be faced with the need to enact the present Bill. The trouble that is entailed in leaving Euratom might be mitigated by the proposed two-year transition period after our formal departure from the European Union in March 2019.

Leaving Euratom imposes tasks that would be impossible to accomplish by that date of departure. There have been numerous testimonies regarding the expense and the damage that will result from leaving

[Viscount Hanworth]
Euratom, and they bear some repeating. In the UK, more than 100 facilities and locations are currently subject to Euratom safeguards and inspections. The Office for Nuclear Regulation—the ONR—which is the UK's nuclear regulatory agency, has repeatedly asserted that it will be unable to implement equivalent safeguarding standards by March 2019. To deliver the new domestic regime, the ONR will need to double the number of its inspectors by 2019 and triple the number by 2021. The costs of purchasing and installing replacement equipment would, in its testimony,

"likely be well in excess of £150m".

Once established, the regime is expected to involve an ongoing cost of £10 million per annum. Without safeguards and nuclear co-operation agreements, critical areas of nuclear trade and research collaboration would cease. The United States, on which we depend for nuclear equipment, will not trade with us unless a regime is in place. Moreover, a new safeguards regime will need to be implemented before any nuclear co-operation agreements can be concluded and ratified. That is to say, none of the necessary third-party nuclear co-operation agreements or NCAs can be negotiated in advance of a settled regime.

At present, in excess of 20% of our power is provided by nuclear energy. The flow of nuclear goods and services that are required to sustain this output cannot continue without a safeguards regime. The construction of new nuclear power stations requires the importation of specialised equipment and personnel that is regulated by the codes of the IAEA. EDF, which is overseeing the construction of a nuclear power station at Hinkley Point, has expressed grave anxieties in this connection. In a very telling memorandum, it has revealed the extent of the international co-operation that was required to overcome a seemingly minor operational problem affecting the Sizewell B reactor, which arose when a seal on one of the heating elements failed. The supply chain involved France and the USA as well as the UK. Its point is that an impaired access to the international supply chain is bound to prejudice the safe and reliable operation of our nuclear power stations.

The UK hosts important nuclear research facilities, including the Joint European Torus at Culham, which is currently funded largely by Euratom. The Government have undertaken to meet the costs of JET until 2020. Thereafter, the future of the Culham enterprise is in doubt.

The next phase of the international fusion programme entails the construction of the International Thermonuclear Experimental Reactor, which is being constructed in Provence, France. ITER, which will exploit the developments at Culham, is one step away from an operational power plant. If we cease to be fully involved in this enterprise, we will squander our intellectual capital and forgo some significant business opportunities for British enterprises.

These troubles, and more besides, are the consequence of an ill-considered and intransigent attitude on the part of the Government in pursuit of their Brexit agenda. These difficulties could be mitigated to some extent if we were prepared to contract the delivery of our safeguards regime to Euratom, while maintaining our overall responsibility. In fact, this has been proposed in a recent report of the Business, Energy and Industrial Strategy Committee of the House of Commons. There is no other reasonable course of action.

6.42 pm

Lord Inglewood (Con): My Lords, I speak briefly in the gap as some months ago I advocated, rather along the lines of some of the speeches we have heard this afternoon, that we ought to remain in Euratom. The response I received then is consistent with the introduction of the Bill we are discussing. Therefore, the most sensible course of action is to implement a seamless transition from the Euratom regime to a national regime. If I have understood my noble friend the Minister correctly, the national regime will be at least as rigorous as the Euratom arrangements now in place. That would be satisfactory to not merely Cumbrians like myself, a number of whom are in the Chamber, but to the rest of the country.

Noble Lords will remember that last week we discussed the withdrawal Bill. On that occasion a large number of strictures, based on the work of the Constitution Committee, were made about the way in which that process was being taken forward. I would like to incorporate by reference—I think that was the term used when I read law—those strictures into this debate as they are as relevant to this matter as they were on that occasion.

6.43 pm

Baroness Featherstone (LD): My Lords, this has been a very interesting debate, somewhat more interesting than I expected given the spat with the Minister. I think that arose because the Government have focused this Bill too narrowly, and arguments have been advanced as a consequence of that.

It was impossible to listen to this debate and that in the other place and not recognise the scale of the folly that leaving the EU forces upon us, not just because we are leaving but because the room for common sense and compromise has gone out of the window. As the noble Lord, Lord Warner, said, that has arisen because the ruling party is terrified of the split riven in its own ranks by Brexit. One of the most confounding aspects of leaving the EU, which leaving Euratom evidences, is the need to set up and replicate so much that already functions so well for us as is. Perhaps we should have a maxim: if it ain't broke and it is doing the job, surely the British people did not mean us to fix it by taking action that will do us harm or cost us a fortune.

There are aspects of the Nuclear Safeguards Bill that clearly cause concern, not just among those who have participated in this debate but well beyond. There are concerns about what is in the Bill, and what is not in the Bill but needs to be tied down and delivered before our departure from the EU next year. As we have heard from all sides, they fall into defined areas: the ONR's capacity; the transition period; issues that need dealing with such as the nuclear single market, raised by my noble friend Lord Fox, and nuclear fusion research, which many noble Lords mentioned; radioisotopes; concerns over JET, which was mentioned by my noble friend Lord Teverson and other noble Lords; our ability to negotiate new nuclear co-operation agreements with international partners beyond the

EU in a timely way; delegated powers—and, in an overarching sense, that the Bill should not have been necessary in the first place.

We heard from all parts of the House, as was the case in the other place, that we do not need to leave Euratom. Sadly, the Government are not prepared to fight that one out with the EU—as was mentioned by the noble Lord, Lord Grantchester, my noble friend Lord Fox, the noble Lord, Lord Whitty, the noble Viscount, Lord Hanworth, and other noble Lords. One wonders why the Government are so reluctant. It is a matter of legal dispute—I and others do not believe that we need to leave Euratom—and it strikes at the heart of the stupidity of so much of this. Is it ideological? Yes. Is it simply that if we remained in Euratom, we would have to continue to be subject to the jurisdiction of the ECJ concerning nuclear safeguards? If so, what a performance just to adhere to ideological red lines. Surely the Government see that all this—all the change, the angst, the cost and the effort in this so-called contingency Bill—might be avoided if it were not for obdurate ideological dogma.

However, as we are to leave Euratom, a better answer would be associate membership. As the Government believe that we can have a bespoke deal with the EU on the single market, I hope they feel that we could have bespoke associate membership of Euratom. Does not Article 206 of the Euratom treaty facilitate associate membership? That is what we should be pursuing. I am aware that the Secretary of State, who was at the Bar earlier, made a Written Ministerial Statement saying that there will be quarterly updates on associate membership, but I put it on the record to indicate the importance we place on this issue.

Ministers reassure us that arrangements will be in place and negotiations are going well; that we will have the closest of associations with Euratom; that discussions on customs and borders have to sort out only a couple of minor things such as the transfer of Euratom-owned equipment and special fissile material in the UK owned by other EU states—that it is all nearly sorted out and everything will be all right. That is not good enough. However, assuming from the passage of the Bill in the other place and the debate today that we are going ahead—fingers crossed—and we have associate membership or equivalent, we still have to ensure that there is no gap between the end of Euratom and the beginning of the ONR taking on that role, and that all that was associated with our membership of Euratom is in place.

It was clear from the evidence given in Committee in the other place that the likelihood of the ONR being up to the same standards as Euratom in March 2019 is zero. Many Members across the House have raised the need for a transition period to tide us over from our protections in Euratom to a place where we are self-sufficient. We cannot leave ourselves exposed in coming out of Euratom when our safeguards are incomplete.

I was interested in the suggestion made by the noble Baroness, Lady Neville-Rolfe, that Article 50 could be extended in regard to Euratom if need be; that seems reasonable. We on these Benches will be happy to put our names to the amendment in the name of the noble Lord, Lord Warner, on transition.

There is a litany of things that are not in the Bill but which need to be in place and sorted. As a couple of noble Lords said, the CEO of the Nuclear Industry Association, the trade body for the UK civil nuclear industry—which we should be listening to—that represents 260-plus companies across the supply chain and thus is in the front line of this legislation, stated that the Bill only does one of a whole range of things that need to be done to prevent disruption on leaving Euratom. We agree. That includes the transportation of overseas nuclear fuel across the EU; co-operation on information, infrastructure and funding of nuclear energy; clarity on who owns all the nuclear material, currently and going forward; the legal purchase, certifier and guarantor of any nuclear materials and technologies that the UK purchases; and, more than anything, bilateral agreements with other countries on nuclear safeguarding. As my noble friend Lord Fox made clear, the Prime Minister's statement—that definitely, absolutely and with no equivocation we are leaving the customs union—will not be very helpful.

As we heard from all sides with great passion, another issue not covered in the Bill is medical radioisotopes. Ed Vaizey in the other place pointed out that the Euratom Supply Agency specifically extended its remit to cover the supply of isotopes because we do not create any in this country. The Government assure us that the movement or supply of isotopes is not pertinent to the Bill, and that negotiations to remain as close as possible to the conditions that we currently experience are going very well. However, surely we must have it written in the Bill that unless and until such arrangements are in place we will not and must not leave Euratom. The noble Lord, Lord Carlile, made a powerful case on the faux distinction made by the Minister and the Government between safeguard and safety. He made an unarguable case for the inclusion of isotopes in the Bill.

The ONR was mentioned by many Members across the House. The Bill transfers authority for nuclear safeguarding from Euratom to the ONR. Although it is making heroic efforts to recruit and train the 30-plus additional inspectors needed to meet these extra responsibilities, it is clear that the ONR will not make the finishing line by March 2019. In Committee, Dr Golshan of the ONR said that:

> "It is fair to say that this is unprecedented territory … and … that we will not be able to replicate Euratom standards on day one".—[*Official Report,* Commons, Nuclear Safeguards Bill Committee, 31/10/17; cols. 6-7.]

It needs a number of skilled staff, proper training, specialist equipment in place with trained operators, and 12 to 18 months to train a single inspector. Another requirement is a new IT system. If any of your Lordships have ever tried to commission a bespoke IT system, they will look at this timetable in horror and recognise the huge challenge of that deadline. That is not to mention the free movement of scientists; perhaps the Minister can give some assurance on that issue of vital importance. We also need sign-off by the IAEA. I am delighted that the Government are having "very positive conversations", but that is not enough and is not tied down. It is not sufficient to say that everything is in hand and will be all right on the night. We need it to be stated that unless and until certain

[Baroness Featherstone]
things are in place, the Bill cannot be enacted. We need a contingency upon this contingency Bill.

The noble Lord, Lord Whitty, observed the need for the ONR to be independent, otherwise the Government will be marking their own homework; that is an important point.

Suffice it to say that not all doubts have been assuaged and not all aspects have been addressed by the Bill, as your Lordships' House requires. We look forward to Committee, where we hope to develop further the safeguards that we need and to address the issues that remain of grave concern.

6.53 pm

Lord Hunt of Kings Heath (Lab): My Lords, in one sense the Minister was right when he described this as a technical Bill. Something of the sort is clearly needed. However, it is of course highly regrettable that he has had to bring the Bill to your Lordships' House as a consequence of what can be described only as the perverse decision to leave Euratom. My noble friend Lord Lea was right to press that point. Euratom predates the EU and comes under a separate legal treaty. The issue might be the ECJ, but it has never made a ruling in respect of any matter relating to Euratom. And Euratom works well—so well that the Government have decided that we are going to leave Euratom only to set up our own new regulator to meet Euratom standards. You could not make it up.

A number of key concerns have come from this debate. The first is that, although the Government are intending to meet Euratom standards, on their own admission they cannot do this by March 2019. That then leads to the ONR. I hold it in high respect but I am concerned about its capacity, funding and governance—the point about the independence of the ONR in the future is very important—as well as the question of time. When one thinks of the scale of the task, one has to ask whether it has the time, capacity and funding to do the job that is required, alongside the establishment of the new regulatory function. The international bilateral agreements—the NCAs—that have to be negotiated in a matter of months are also a cause for some concern.

The second area of concern is around the transition. It is not clear to me exactly what the Government are aiming for and what the fallback position will be. If the fallback plan is to say that by March 2019 we can guarantee only IAEA standards, that will certainly be unacceptable, and I think that the House will wish to amend the Bill to make sure that that cannot happen.

Many noble Lords have commented on the narrowness of the Bill. Clearly the Euratom decision goes much wider in three areas in particular. One is medical isotopes. Another is the international supply chain, which applies as much to new nuclear as it does to the decommissioning of our old stock, with all that that implies. As a former Minister for Energy who has visited Sellafield on a number of occasions, I am only too well aware of the challenges there.

There are also questions about responsibility for setting standards. If in the future that is not done by Euratom, will it be done by the UK Government? It is one thing to say that we are going to aspire to meet current Euratom standards, but life moves on and standards will evolve. The question of which standards we will meet in the future is a very important one. Are we going to set our own standards within the sphere of the IAEA, or are we going to follow Euratom standards without having any influence over them? Those are the things that we want to know. The Official Opposition do not support leaving Euratom. Failing that, we believe that there must be an equivalence, and that that equivalence must be in place by March 2019.

Looking at some of the questions in more detail, perhaps I may ask the noble Lord about the transition. First, the impression that I got from his opening remarks is that he sees this issue as being fully a part of the transition that we are negotiating with the EU, and therefore that Euratom matters cannot be considered as a separate point. The noble Baroness asked whether Article 50 could be suspended in relation to Euratom. From what the Minister said, my impression is that that is not possible because this is simply a part of the more general discussions. It would be good to know whether my assumption is right.

Secondly, what does "close association" mean? There has been a lot of discussion here and in the other place about whether, certainly during the transition period but beyond it as well, we could subcontract back the Euratom staff to continue doing what they do while, I imagine, being duly accountable to Euratom and to the ONR. That would seem to be a straightforward way of doing it. Or, could we be an associate member? What does close association mean? We are right to ask what that entails.

That brings us to what the Government seek to do. We all read the evidence given in the Public Bill Committee from the ONR itself and I pay tribute to the work that it has done, but I understand from what was said that it recruited four new people and reckoned it needed another 10 or 12 in order to make IAEA standards by 2019 and another 20 following that to meet Euratom standards. So there are two questions. If another 20 are needed over what was thought could be achieved by 2019, what is the difference in real terms between Euratom standards and IAEA standards? In other words, what is the impact of having fewer inspections of less intensity? If the Government say, "Actually, there is very little difference at all", I would ask them why they are sticking to Euratom standards. If, actually, this is significant, it is clearly unacceptable that we allow the Bill to go through without having some guarantee that in March 2019 we will abide by Euratom standards.

On finance, a number of noble Lords expressed concern, particularly my noble friend Lord O'Neill, about the cuts to the ONR budget and whether that will impact on its capacity to carry out these new roles. I also think that there is an issue that the industry has raised. Who will pay the cost of the new regime? At the moment, it is paid out of the UK contributions to EU budgets. I suspect that the Government have in mind to make industry pay the cost in the future. We ought to know.

On current activities, on the whole issue of the international supply chain and on the question of decommissioning, clearly, as my noble friends Lord

O'Neill and Lord Judd said, maintaining public confidence is crucial. As someone who very much supports the industry, who works to bring new nuclear back to the UK, it is vitally important to make sure that there are no hiccups in the international supply chain because we need the support of people, companies and goods and services from other countries. It is also important in relation to decommissioning.

A number of noble Lords mentioned research. It is clearly important. We get a lot of money through Euratom to invest in our research projects. We have a great deal of collaboration. The Government have to set out a strategy about how to ensure that we do not lose that collaboration and investment in the future.

I do not need to say very much about radioisotopes because a number of noble Lords, especially the noble Lord, Lord Carlile, went into that in great detail. I am grateful to the Minister for focusing on this, but in his opening remarks he said that he hoped that we would be reassured, because he recognised concerns, and he talked about customs arrangements being able to minimise any impact. The problem we have is that a significant part of the Conservative Party in the other place do not want customs arrangements as far as I can see. Lord knows what they want. They seem to want to take this country down to economic ruin, but the fact is that no one sitting here today could have any reassurance that the noble Lord is right about those customs arrangements. The most likely outcome at the moment is that we will walk away from those talks. What guarantees can be made about those custom arrangements? The point that noble Lords made about continuing access to the Euratom observatory was very important.

Finally, rather remarkably, I do not think that Henry VIII powers have had much of an outing here, although, as the noble Lord knows, there are a lot of regulations in the Bill, and one or two Henry VIII ones at that. Of course I understand that there does need to be some flexibility in this area, but there might be a case for looking at whether we can constrain the use of the Henry VIII powers. There is also the suggestion of a sunset clause, and I warm to the suggestion by the noble Baroness, Lady Neville-Rolfe, of reviews and annual reports, which might be another way of dealing with those issues.

Overall, this is a highly interesting technical Bill. Whether two days in Committee will be enough, I rather doubt. We are looking to seriously change the Bill to provide reassurance that, in March 2019, we will continue to have Euratom standards.

7.05 pm

Lord Henley: My Lords, I will come to the Henry VIII powers later, and I am grateful that the noble Lord feels that he does not want to discuss them in much detail at this stage. I believe that only this evening the Delegated Powers Committee has been looking at them. I hope that, on this one occasion, we will get a clean bill of health. But I think that noble Lords opposite who have been Ministers will know that there are occasions when Henry VIII powers are necessary. Moreover, all of them have probably been guilty at one time or other of having introduced legislation containing a Henry VIII power. However, I shall get to that later and touch on it briefly.

The noble Lord, Lord Fox, and the noble Baroness, Lady Featherstone, both wanted a much wider debate. I think that the noble Lord, Lord Fox, suggested that I was hiding behind the narrow remit of this Bill. That is not so. He wanted me to join in a wider debate on the nuclear industry, nuclear research and development and all those matters. I have given assurances about our commitment to the nuclear industry because they are important in relation to the Bill. I have also given assurances about how we will continue to invest in research and development, and I hope that my noble friends Lady Neville-Rolfe, Lord Inglewood and Lady Bloomfield will accept them. We are committed and, again, I hope that the noble Lord, Lord Broers, will accept that. But now is the not the time to be debating the wider issues. The noble Lord, Lord Fox, who acts as if he is some simple ingénue and cannot find ways of getting these matters debated knows perfectly well that there are plenty of means of securing a full debate on the nuclear industry, and no doubt he will institute one in due course.

The important matter at the moment is to debate this Bill at its Second Reading because it deals with a crucial point; namely, that we are leaving Euratom. I am grateful to the noble Lord, Lord Hunt of Kings Heath, for saying that although he regretted the fact that we will be leaving Euratom, he accepted that since we are doing so, there is a need for the Bill and, as I understand him, it is not the job of the Official Opposition to prevent it getting on to the statute book. What he wanted to ensure is not only proper scrutiny, but that we should provide the appropriate assurances that in a year's time the ONR will be in the right place to take on the new responsibilities that it will have. I hope that I can deal with those points in the course of my remarks.

I shall start with the need to leave Euratom and repeat once again the point I have made that the Euratom treaty is legally distinct from the European Union treaty, but it has the same membership of all 28 states and makes use of the same institutions. Noble Lords will recall that the decision to leave Euratom formed part of the consideration by both Houses of the European Union (Notification of Withdrawal) Bill, which is now the European Union (Notification of Withdrawal) Act 2017. It is a done deal and we are leaving. It therefore behoves this House and another place to make sure that in a year's time we are in the right place; that is, where the noble Lord, Lord Hunt of Kings Heath, wishes us to be.

It is important to say, in particular in response to the questions put by the noble Lord, Lord O'Neill, about maintaining public confidence because it is so important to the nuclear industry as a whole—here we are going wider than the question of safeguards—that this does not mean that we should not continue to have a relationship of some kind with Euratom, and we shall continue to discuss these matters. Our withdrawal will in no way diminish our nuclear ambitions or, I believe, our high international standing on nuclear matters. Maintaining the continuity of our mutually successful civil nuclear co-operation with Euratom and with international partners is a key priority. We will continue to have a constructive, collaborative relationship with Euratom. The United Kingdom is a

[LORD HENLEY]
great supporter of it. We have been working on its standards and we will continue to do so.

Our strategy is to continue to seek a close association with Euratom while putting in place all the necessary measures to ensure we can operate as an independent and responsible nuclear state from day one.

Lord Lea of Crondall: My Lords—

Lord Henley: Just before I give way to the noble Lord, I remind the House that I gave way six times in the course of my introduction. One of the six who intervened, the noble Lord's noble friend Lord Rooker, has not felt it fit to stay, but I give way to the noble Lord, Lord Lea.

Lord Lea of Crondall: I was going to pick up a totally fresh point that has just been made, but if the noble Lord does not want to deal with it I will leave it. I am sure he will write a letter on many of these points.

Lord Henley: My Lords, I am always more than happy to take interventions. As I said, I took a total of six in the course of my earlier speech. I will of course write to the noble Lord and others on points that I cannot manage, particularly on points that are relevant to the Bill. Some of the interventions, when we got a bit confused about nuclear safeguards and nuclear safety, went somewhere beyond the Bill's scope.

Lord Lea of Crondall: It is a very simple point. The noble Lord has made a fresh point along the lines that we have no basis on which we can do other than be a rule-taker. I thought that most people who are adamant that we must leave the European Union and all of its manifestations object to anything that leaves them in the position of rule-taker instead of rule-maker. The noble Lord is now saying, "Let's keep being a rule-taker from Euratom".

Lord Henley: I said nothing of the sort. I hope that the noble Lord will look very carefully at what I said. I said that we want to continue to develop our relationship with Euratom but that, of course, we will not be in it. Therefore, it is important for us to set up alternative arrangements, which is what this Bill is about, so that we can have the appropriate nuclear safeguards regime in place. Similarly—this point was made by the noble Lord, Lord Teverson, and others—we want to make it clear that we will have nuclear co-operation agreements with other countries around the world. We already have some, but our officials are engaging with some key international partners, including the United States, Canada, Japan and Australia, to ensure that we have essential nuclear co-operation agreements in place to ensure uninterrupted co-operation in trade and the civil nuclear sector. I confirm to the noble Lord, Lord Grantchester, on his questions on how we want to develop any further nuclear co-operation agreements, that our intention would be to present any new agreements to Parliament, as is appropriate, prior to the Government's ratification, as provided for in the Constitutional Reform and Governance Act 2010.

I turn to medical radioisotopes, which have exercised a great many noble Lords. This is important. I am not sure that I can add much to what I said at the beginning, other than to stress how important the Government consider this issue. We will continue to make sure that appropriate arrangements are in place at our borders to allow their seamless import into this country. When I talked about customs arrangements I was not talking—if the noble Lord, Lord Hunt of Kings Heath, will bear with me—about a customs union but just about the usual arrangements that HMRC is responsible for, to make sure that things can come through quickly, particularly things that have a very short life, as the noble Lord, Lord Warner, and others reminded us, and as I think I reminded the House at the beginning. The important point to get over is that we take this very seriously, we will continue to discuss it and I will certainly write to all noble Lords, and in particular to the noble Lord, Lord Warner, to make it quite clear what we are doing. I will write before Committee and will probably continue to write on other occasions throughout the course of the Bill.

I turn to the role of the ONR and whether it feels that it can implement the necessary changes in the timescale that is before it. The first point to get over is the simple question of funding. I can give an assurance to the House that the Government are making another £10 million available to set up the new regime. When noble Lords talk about cuts to the funding that has been available to the ONR in the past one should remember—I think that there has been a degree of "economy with the actualité", as someone once put it—that the ONR is actually very well funded and that changes to the level of the grant it gets from government are only a very small part of the overall ONR budget, which is actually growing and not shrinking. More than 90% of the ONR's budget is recovered from industry; it is not coming from government. The safeguards work is being paid to ONR directly from BEIS's budget, so I can again give the assurance to the noble Lord, Lord Hunt of Kings Heath, that there will be no charge on industry to pay for safeguarding work. The charges to industry are to cover other matters and, as I said, more than 90% of its budget comes from those sources.

It is important to get over just what the ONR is doing and the Government's commitment to make sure that we have a robust regime that is as comprehensive as that currently provided by Euratom. Euratom standards, as has been made quite clear by myself, by other Ministers and by many speakers in this debate, are considerably higher than those that other bodies would achieve. Achieving such international standards will allow the UK to discharge its international commitments and will underpin international nuclear trade arrangements with countries such as the United States, Canada, Japan and Australia.

The ONR is in the process of developing an expanded safeguards function by recruiting and training additional inspectors, building additional institutional capacity and developing necessary IT systems. It is aiming to have in place sufficient staff, including inspectors, from 29 March 2019 to meet international standards as applied by the IAEA. Current estimates suggest that the ONR would require a team of some 20 to

25 staff, which would include up to 17 safeguards inspectors. It already has 11 safeguards officers in post who are all in training to become safeguards inspectors by 29 March 2019. The ONR estimates that, to be able to deliver its functions to a standard broadly equivalent to Euratom standards, it may require a team of around 30 to 35 staff, which would include around 20 safeguards inspectors. It is actively recruiting and interviewing further candidates. The first phase of recruitment last year was successful: four individuals were recruited and are currently in training to become safeguards inspectors. A further recruitment campaign is under way. Successful candidates will join the ONR's training programme and the ONR assesses that it will take a further 12 months or so to upskill new recruits to inspector level. So we have confidence that the ONR will be able to get up to the appropriate level. We also have confidence that, if necessary, it will be able to recruit from abroad. We are working with the Home Office to make sure that whatever happens with our future immigration system, that will be set out shortly and we will be able to ensure that the right people can get in at the right time.

The final matter raised by the noble Lord, Lord Hunt of Kings Heath, was the Henry VIII power. I admit that it is a Henry VIII power. It is quite clear that it is a Henry VIII power. I cannot remember who very politely said—I think it was the noble Lord, Lord O'Neill—that it was just drifting into being a Henry VIII power. It is a classic Henry VIII power—it is seeking to amend primary legislation by means of secondary legislation—but it is as limited as it can be. Clause 2 can amend any of the three Acts that I mentioned in my introduction,

"in consequence of a relevant safeguards agreement";

in other words, it is limited to changes as a result of the safeguards agreement and can be only in consequence of that. It cannot be used in any other way. It is very specifically drawn. It is limited to those consequential changes and sets out the three pieces of legislation that may be amended. I look forward to hearing a little more about the views of the Delegated Powers Committee and I hope that it will, for once, give the Government a clean bill of health.

I hope I have dealt with most of the points that are relevant to the Bill but obviously I will write to noble Lords in due course, as is appropriate. In the meantime it behoves me only to beg to move that the Bill be now read a second time.

Bill read a second time and committed to a Committee of the Whole House.

Space Industry Bill [HL]

Returned from the Commons

The Bill was returned from the Commons agreed to with amendments.

House adjourned at 7.22 pm.