

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENVIRONMENT BILL

Twentieth Sitting

Tuesday 24 November 2020

(Morning)

CONTENTS

CLAUSES 130 TO 133 agreed to, some with amendments.
New clauses considered.
Adjourned till this day at Two o'clock.

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

not later than

Saturday 28 November 2020

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The Committee consisted of the following Members:

Chairs: † JAMES GRAY, SIR GEORGE HOWARTH

† Afolami, Bim (*Hitchin and Harpenden*) (Con)
 † Anderson, Fleur (*Putney*) (Lab)
 † Bhatti, Saqib (*Meriden*) (Con)
 Brock, Deidre (*Edinburgh North and Leith*) (SNP)
 † Browne, Anthony (*South Cambridgeshire*) (Con)
 † Crosbie, Virginia (*Ynys Môn*) (Con)
 † Docherty, Leo (*Aldershot*) (Con)
 † Furniss, Gill (*Sheffield, Brightside and Hillsborough*) (Lab)
 † Graham, Richard (*Gloucester*) (Con)
 Jones, Fay (*Brecon and Radnorshire*) (Con)

† Jones, Ruth (*Newport West*) (Lab)
 † Mackrory, Cheryl (*Truro and Falmouth*) (Con)
 † Moore, Robbie (*Keighley*) (Con)
 † Pow, Rebecca (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)
 † Thomson, Richard (*Gordon*) (SNP)
 † Whitehead, Dr Alan (*Southampton, Test*) (Lab)
 † Zeichner, Daniel (*Cambridge*) (Lab)

Anwen Rees, Sarah Ioannou, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Tuesday 24 November 2020

(Morning)

[JAMES GRAY *in the Chair*]

Environment Bill

9.25 am

The Chair: This may be entirely disorderly, but to give the shadow Minister time to collect his thoughts, I am delighted to be able to advise the Committee that my first grandson, Frederick Evelyn Gray Barker, was born this morning at 6 o'clock. [HON. MEMBERS: "Hear, hear!"] That is something that can go into *Hansard* and it can be put on his nursery wall.

Clause 130

EXTENT

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): I beg to move amendment 231, in clause 130, page 116, line 31, at end insert

"except that section (Use of forest risk commodities in commercial activity) and Schedule (Use of forest risk commodities in commercial activity) (use of forest risk commodities in commercial activity) extend to England and Wales, Scotland and Northern Ireland."

This amendment provides that NC31 and NS1 extend to England and Wales, Scotland and Northern Ireland.

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

Government new clause 31—*Use of forest risk commodities in commercial activity.*

Government new schedule 1—*Use of forest risk commodities in commercial activity.*

Rebecca Pow: May I be the first to congratulate you on becoming a grandfather, Mr Gray, and to welcome Frederick to the world? He has arrived on a really auspicious day for our global footprint. I hope that he will be very proud when he is a bit more grown-up and reads in *Hansard* what his grandpa said—hopefully he might just read long enough to read this speech as well. I think that he will be rather proud also that his grandpa was part of this Committee.

The Chair: That is enough congratulations, but thank you very much.

Rebecca Pow: I am delighted to discuss amendment 231, new clause 31 and new schedule 1. Consumers in this country are increasingly concerned that they are contributing to environmental destruction overseas, and they are right to be concerned: almost 80% of deforestation is caused by agriculture, including produce that we use here in the UK. Globally, half of all recent tropical deforestation was the result of illegal clearance for commercial agriculture and timber plantations. Shockingly, the figure increases to 90% in some of the world's most biodiverse forests, including parts of the Amazon.

We will be the first country in the world to legislate to tackle this illegal deforestation by setting a framework of requirements on business. Businesses will be prohibited from using forest risk commodities produced on land that was illegally occupied or used. They will be required to establish a due diligence system for regulated commodities to ensure that their supply chains do not support illegal deforestation, and will have to report annually on that exercise. If businesses do not comply, they should be subject to fines. The measures will extend across the whole of the UK, so that we can work across our nations to tackle illegal deforestation.

As the first country in the world to legislate on this issue, we want to continue to lead the way internationally. Therefore, the measures also require us to review the law's effectiveness every two years. The review will set out any steps that we intend to take as a result, ensuring that we will take action if we do not see progress. The enabling powers in the framework allow us to adjust certain aspects as deforestation patterns change and technology advances.

The law before us today is not only a win for the environment. It is a win for UK consumers, who will have confidence that the food they eat and the products they use have been produced responsibly. It is a win for responsible businesses in the UK, which will no longer be undercut by those who do not follow the rules. And it is a win for our international partners in producer countries, because this approach will deliver for trade and economic development as well as for the environment. We have seen that in Indonesia, where the introduction of a timber licensing scheme meant that confidence in the provenance of its timber grew, leading to an increase in trade. The value of Indonesia's worldwide exports of timber products doubled from \$6 billion in 2013 to nearly \$12 billion in 2019.

Richard Graham (Gloucester) (Con): As the Prime Minister's trade envoy for Indonesia, I had the great pleasure of working closely with colleagues from the Department for International Development and in our embassy in Jakarta on helping the Indonesians to find a solution to what was a significant problem for them. Does the Minister agree with me that this measure shows what the UK can do abroad on our environmental policies, as well as at home?

9.30 am

Rebecca Pow: I thank my hon. Friend so much for his intervention, because he is right to point that out. I must applaud him for the work he did with the UK Government. It was a tricky issue. Timber is an important export for Indonesia, but that must not come at the expense of cutting down its precious rainforests and other forests, with all the knock-on effects that brings for the wider environment. We have the solution for timber, with sustainable timber regulations sorted out, and we are now working on other products. My hon. Friend is right to point out how beneficial that can be all around, with the knock-on effects, and I thank him for that.

As a result of that work in Indonesia, the amount of money made went up, as I said, and deforestation rates were three times lower in areas producing timber covered by the scheme than in other areas, so it worked all

around. That shows how driving demand for sustainable products helps not just the people there but nature and the climate—it is an all-round win.

I assure the Committee that the Government intend to move swiftly to bring legislation forward and will lay the necessary secondary legislation shortly after COP26, which we will hold in Glasgow next November. We will consult again to gather views as we develop secondary legislation, and Parliament will have the opportunity to scrutinise many of the regulations.

Dr Alan Whitehead (Southampton, Test) (Lab): At the risk of incurring your wrath, Mr Gray, I will add my congratulations to those of the Minister on the birth of your grandson. I observe that your grandson shares a name with an esteemed public servant in my city of Southampton, and I trust he will live up to the achievements of that individual even if he does not indeed pursue a great career in environmental conservation and management, which perhaps would be appropriate to today's proceedings. That is all I am going to say.

The Chair: Order. I am most grateful to everyone, but no more congratulations. Thank you. But he was born in Brighton, just down the road from Southampton, so pretty close by.

Dr Whitehead: There we are: the coincidences are raining on each other now.

The Government new clause and new schedule represent a tremendous step forward in action not only in the UK but, as the hon. Member for Gloucester said, abroad. That demonstrates how we can reach beyond our shores in environmental protection and action, as well as in due diligence for conservation, environmental management and climate change purposes. The Opposition wholly welcome these measures. However, why were they so late in coming?

I think we can claim we nudged the Government a little in that direction, because our due diligence new clause, which we will discuss later, is about the wider subject that the Minister mentioned in her remarks and points the way. We hope that the Government will go beyond forestry products and into other areas. We tabled our new clause, which substantially anticipated the Government's action, before Parliament went into recess for the lockdown. Can the Minister reflect on why these measures were as late as they were? In her opinion, did the nudging of not only Labour but also a large number of national and international environmental groups, who banded together to develop the due diligence way of doing things, have a substantial hand in making sure—albeit a little late in the day—that these new clauses came into being? It was just in time because the Bill will now have these clauses in it, and I hope they will fully survive the rigours of the Bill's passage through the House and come to be a substantial part of it. I think it will be a very welcome and progressive part of the Bill.

Rebecca Pow: I welcome the fact that the Opposition are in agreement and welcome this. Nobody in their right minds would think this is a bad idea. I welcome that and we do share a good relationship, so I thank them for that. Yes, the amendment was tabled and we all listened to it, and indeed we had plenty of people on

our side pushing for it as well. This is a global issue. Let us tackle it together globally, which I think the hon. Gentleman will agree is what we are doing.

Ruth Jones (Newport West) (Lab): While we are singing from the same hymn sheet and all in harmony, would the Minister agree with over 90% of respondents to the public consultation—there were 63,000 respondents, which is a fantastic result—who felt the legislation could go further and that local law should be strengthened?

Rebecca Pow: A great deal of consultation went into this and all of those views were looked at, and then it was considered what would be the best and most positive way forward. Tackling this issue is not straightforward and requires dealing with other governments around the world. One has to tread a careful path, and I believe we have come up with a really workable solution.

To answer the comment by the hon. Member for Southampton, Test about why we did not do this more quickly, the consultation took a long time and we had to take into account a great many views and discussions. We must remember that a lot of this originated from the work done by Sir Ian Cheshire and the Global Resource Initiative. We referenced that way back in March, when I was being asked why the Government were not doing this fast enough. We had the GRI's summary and we were working up how we could continue to work from its recommendations. That is where we engaged with so many NGOs, particularly the Royal Society for the Protection of Birds and WWF, because they are valued partners with a great deal of experience. They have been helpful in inputting into what we have come up with. I hope that is helpful to the shadow Minister and I think we will have a bit more discussion about this later, but I will leave it there.

Amendment 231 agreed to.

Clause 130, as amended, ordered to stand part of the Bill.

Clause 131

COMMENCEMENT

Dr Whitehead: I beg to move amendment 2, in clause 131, page 117, line 21, leave out “on such day as the Secretary of State may by regulations appoint” and insert

“at the end of the period of six months beginning with the day on which this Act is passed”.

This amendment seeks to prevent the Secretary of State from choosing not to enact parts of the Bill. Currently multiple provisions including the whole of Part 1 (environmental governance), Part 6 (nature and biodiversity) and Part 7 (Conservation Covenants) could never be enacted, even after the Bill has received Royal Assent.

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

Amendment 151, in clause 131, page 118, line 2, leave out “on such day as the Welsh Ministers may by regulations appoint” and insert

“at the end of a period of six months beginning with the day on which this Act is passed”.

Amendment 152, in clause 131, page 118, line 23, leave out “on such day as the Scottish Ministers may by regulations appoint” and insert

“at the end of a period of six months beginning with the day on which this Act is passed”.

[The Chair]

Amendment 153, in clause 131, page 118, line 29, leave out “on such day as the Department of Agriculture Environment and Rural Affairs in Northern Ireland may appoint” and insert

“at the end of a period of six months beginning with the day on which this Act is passed”.

Dr Whitehead: The amendments all essentially say the same thing, but face towards different Secretaries of State. They refer to the back of the Bill, which we are now considering. I recommend to those Members who perhaps have not ventured to look at the backs of Bills to any great extent in their time in this House to have a good look at the back of this Bill and any Bill that comes before the House. If hon. Members are on Committees on future Bills, it is always worth having a look at the back of the Bill to see what is intended for all the legislation that has been drafted and discussed assiduously. What I mean by that is that the back of the Bill is where things actually happen or do not.

For this Bill, it is more than important that what we have discussed and made passionate speeches about actually happens, and the provisions come into force in good time, so that our intentions are carried out. The problem with intentions on many occasions is that they are not actually reflected on the back of the Bill. What happens is that the ability to implement a part of the legislation is reserved to the Minister by regulation. For people who want to take their search of the back of the Bill seriously, the statute books apparently include a large amount of legislation which just has not been enacted—a complete education Bill, for example, from a while ago. None of it has been enacted, because what is on the back of the Bill has simply not taken place.

I mentioned earlier the Office of Gas and Electricity Markets regulations and the Energy Act 2013. Why is that important? Well, part 5 of the 2013 Act, as hon. Members will recall, was about the designation of a statement on policy for Ofgem, concerning the environment and climate change. We tabled an amendment suggesting that the Government should press Ofgem to revise its mandate to ensure that it has the environment and climate change at its heart. What hon. Members might be surprised to know, and I do not recall if it was specifically mentioned when we moved that amendment, is that already in legislation is a complete section of a Bill—not just a clause—saying that the Government should introduce a strategy and policy statement requiring Ofgem to have an environmental and climate change brief.

That was agreed by a similar Committee to this one, thinking in 2013 that that was going to happen. It has not happened, simply because, on the back of the Bill is a provision that section 5 of the 2013 Act comes into force when the Secretary of State by regulation decides. Ofgem has never had such a brief in its armoury because Ministers have simply declined to implement that bit of the 2013 Act. They have sat on their hands and not carried out the work necessary to implement it. We are trying to ensure that those important parts of this Bill, which we have laboured mightily over, come into force and do what we think they will do in reasonably good order.

9.45 am

Hon. Members will see that the things that do not come into force at an early stage, or at all, are quite surprising. For example, part 1 of this Bill, which the Government have highlighted as a flagship of the Bill’s targets, does not come into force unless the Secretary of State decides so by regulations. I am not suggesting that the present Minister or Secretary of State would simply sit on their hands such that it did not come into force, but the wording allows for that. The following parts of the Bill are also subject to the Minister’s discretion to introduce by regulations: the separate collection of household waste, in clause 54; hazardous waste, in clause 57; charging powers, in clause 61; littering enforcement, in clause 65; smoke control areas, in schedule 12; and water management plans, in clause 75.

For the sake of good governance, we think it is necessary to change those provisions. Hon. Members will see that other clauses come into force on the day on which the Bill becomes an Act. It is not a principle that cannot be agreed; it is about where different parts of the Bill fall in terms of those provisions.

I recognise that the provisions that I have mentioned may be somewhat separate from the provisions that come into force on the day the Bill becomes an Act, because additional work is required on regulations to enact those parts of the legislation, but the same is true of any Bill that goes on to the statute book. We suggest that allowing a six-month period to enact those sections should give ample time for the additional regulations to be passed through the House. We simply suggest that in the parts of the Bill over which the Secretary of State has complete discretion about when they are implemented, that provision should be replaced by the suggestion that they come into force within six months of the passing of the Act. Amendments 151, 152 and 153 would do the same thing for those elements of the legislation that are currently within the discretion of the Secretaries of State for Wales, for Scotland and for Northern Ireland.

Amendment 2 would make a substantial difference to the Bill. It would assure the Committee that our work will not just gather dust on a bookshelf, and that the Bill really will do the things that we want it to do and have worked hard to make it do.

Rebecca Pow: I support the shadow Minister in urging me to look at the back of the Bill. What goes on at the back of a Bill is the powerhouse, and I have become terribly interested in that. One must look at the back of the Bill, as he says. I must say, however, that I think he is being terribly negative. First, these measures will be in legislation. Secondly, the strength of feeling about improving the environment is now so strong, not just among our super keen Committee members, who are stalwarts in this area, but among everybody out there—we only have to look at Twitter. I want these measures as much as he does.

I thank the hon. Member for the raft of amendments on the same point, which would have the effect, six months after the Bill receives Royal Assent, of commencing all the remaining provisions of the Bill that can be commenced by the Secretary of State, Scottish Ministers, Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

That one-size-fits-all approach would cause very serious problems when the Bill is implemented following Royal Assent. For example, if the amendment were to be accepted, it would very likely delay the establishment of the Office for Environmental Protection by nine months. We have already launched and concluded a recruitment campaign for the chair of the OEP. Far from not doing anything, we have already started, and I hope the hon. Member will commend that.

Many parts of the Bill will be at least partially commenced much earlier than six months after Royal Assent, and other provisions will need at least in part to be commenced somewhat later, requiring further evidence gathering and public consultation, for example. That is not to mention the impact on local authorities. We will have to work very carefully and closely with them, because they are absolutely key to implementing quite a number of measures, not least in terms of biodiversity, as well as the waste measures.

I assure the hon. Member that the Government have not brought this vital piece of legislation to this House only for it to languish uncommenced in a cupboard. He gave an example of another piece of legislation. The Bill will not be like that, particularly not after all the time that has been invested in it. It has gone on for the whole year of my life as the Environment Minister. It has come and gone, and it has returned, and it is the stronger for it. It is certainly not going to languish.

We are setting ourselves legally binding targets under part 1 of the Bill, and we will need all the tools later in the Bill to support the delivery of those targets. The targets are legally binding—that is what the Bill says. Work is already going on with many organisations and the Department to work out how we will devise the targets, what the best targets to start with would be, and what later targets would be. An awful lot of work needs to go on—consultations, further detailed guidance and then new regulations—as I am sure the hon. Member will appreciate.

As we have said, we will bring forward at least one target in each of the four priority areas as well as a target for fine particulate matter, PM2.5, by the Bill's 31 October 2022 deadline. All that work has to take place before that. Every time I speak on air quality—the hon. Member will understand this point—we are being held to account. We need to do this and we will do it. He asked whether we would trigger any of the work and the measures. We published the targets policy paper on 19 August, detailing the roadmap for delivering the targets.

I hope the hon. Gentleman will agree that we are demonstrating that this will not be a Bill that sits in a cupboard getting dusty. Ministers in devolved Administrations need a measure of flexibility in commencing the provisions in many parts of the Bill as well. Other parts of the Bill can safely be commenced on Royal Assent or two months later. Hon. Members will know that that is the customary approach for Bills. Therefore, the commencement of provisions in the Bill already strikes the right balance between automatic commencement and providing the necessary flexibility to Ministers. I hope that clarifies the position, and I ask the hon. Member to withdraw the amendment.

Dr Whitehead: We do not want to divide the Committee on the amendments. I welcome the Minister's enthusiastic intimation that she has no intention that this Bill should

sit on a covered shelf. I am sure she is right on that, given her commitment so far to making this Bill work, and the effort that she has put into ensuring that we move forward. Indeed, I welcome her indication that action has already started on ensuring that these provisions work. However, that does not undermine the fundamental point about the legislation, namely that it is possible for Ministers who are less dedicated than she is simply to sit on their hands. That is the central concern behind our amendments. I strongly take on board her point that she is not a Minister who is going to sit on her hands.

I wonder whether she has considered the green Cabinet Sub-Committee as part of her approach. I am not sure whether she sits on it, but if she or a colleague of hers does, she might take the opportunity gently to remind the Ministers in the Department for Business, Energy and Industrial Strategy that they also have a responsibility to implement legislation, and that the fact that they have not done so has a substantial effect on some of the things that we want to do in this Bill. She might take the opportunity to say, "Get on with it—seven years down the road, you ought to have implemented this."

Rebecca Pow: The hon. Gentleman makes a very good point. I was not specifically going to comment on that, but I am sure he will agree that as a result of the Bill, other Departments will have to look at what they do on the environment. Many already do, but there will now be much more of a requirement that they do so. Does he agree that one reason why we must bring forward a lot of these measures, particularly on diversity, is that they will dovetail with the new agricultural land management system? It is important that the two schemes work together.

Dr Whitehead: I very much take on board the fact that the Bill is primarily about DEFRA, but it cannot work properly unless all other Departments play their part in ensuring that that happens. That point is very well made, and it underlines my request for the Minister to have a quiet word with another Department to suggest that it does as she intends, as far as this Bill as this concerned, with its areas of responsibility in relation to environmental and climate change outcomes. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 131 ordered to stand part of the Bill.

Clause 132

TRANSITIONAL OR SAVING PROVISION

Amendments made: 63, in clause 132, page 119, line 38, leave out "the National Assembly for Wales" and insert "Senedd Cymru".

See Amendment 28.

Amendment 64, in clause 132, page 119, line 39, leave out "Assembly" and insert "Senedd".—(*Rebecca Pow.*)
See Amendment 28.

Clause 132, as amended, ordered to stand part of the Bill.

Clause 133 ordered to stand part of the Bill.

New Clause 4

MEMORANDUM OF UNDERSTANDING

"(1) The OEP and the Committee on Climate Change must prepare a memorandum of understanding.

(2) The memorandum must set out how the OEP and the Committee intend to co-operate with one another and avoid overlap between the exercise by the OEP of its functions and the exercise by the Committee of its functions.”—(*Rebecca Pow.*)

This new clause requires the OEP and the Committee on Climate Change to prepare a memorandum of understanding, setting out how they will co-operate with one another and avoid overlap in the exercise of their functions.

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

New Clause 24

GUIDANCE ON OEP’S ENFORCEMENT POLICY AND FUNCTIONS

(1) The Secretary of State may issue guidance to the OEP on the matters listed in section 22(6) (OEP’s enforcement policy).

(2) The OEP must have regard to the guidance in—

- (a) preparing its enforcement policy, and
- (b) exercising its enforcement functions.

(3) The Secretary of State may revise the guidance at any time.

(4) The Secretary of State must lay before Parliament, and publish, the guidance (and any revised guidance).

(5) The OEP’s “enforcement functions” are its functions under sections 29 to 38.’—(*Rebecca Pow.*)

This new clause provides that the Secretary of State may issue guidance to the OEP on the matters listed in clause 22(6) (OEP’s enforcement policy). The OEP must have regard to the guidance in preparing its enforcement policy and exercising its enforcement functions.

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

New Clause 25

SPECIES CONSERVATION STRATEGIES

(1) Natural England may prepare and publish a strategy for improving the conservation status of any species of fauna or flora.

(2) A strategy under subsection (1) is called a “species conservation strategy”.

(3) A species conservation strategy must relate to an area (the “strategy area”) consisting of—

- (a) England, or
- (b) any part of England.

(4) A species conservation strategy for a species may in particular—

- (a) identify areas or features in the strategy area which are of importance to the conservation of the species,
- (b) identify priorities in relation to the creation or enhancement of habitat for the purpose of improving the conservation status of the species in the strategy area,
- (c) set out how Natural England proposes to exercise its functions in relation to the species across the whole of the strategy area or in any part of it for the purpose of improving the conservation status of the species in the strategy area,
- (d) include Natural England’s opinion on the giving by any other public authority of consents or approvals which might affect the conservation status of the species in the strategy area, and
- (e) include Natural England’s opinion on measures that it would be appropriate to take to avoid, mitigate or compensate for any adverse impact on the conservation status of the species in the strategy area that may arise from a plan, project or other activity.

(5) Natural England may, from time to time, amend a species conservation strategy.

(6) A local planning authority in England and any prescribed authority must co-operate with Natural England in the preparation and implementation of a species conservation strategy so far as relevant to the authority’s functions.

(7) The Secretary of State may give guidance to local planning authorities in England and to prescribed authorities as to how to discharge the duty in subsection (6).

(8) A local planning authority in England and any prescribed authority must in the exercise of its functions have regard to a species conservation strategy so far as relevant to its functions.

(9) In this section—

“England” includes the territorial sea adjacent to England, which for this purpose does not include—

- (a) any part of the territorial sea adjacent to Wales for the general or residual purposes of the Government of Wales Act 2006 (see section 158 of that Act), or
- (b) any part of the territorial sea adjacent to Scotland for the general or residual purposes of the Scotland Act 1998 (see section 126 of that Act);

“local planning authority” means a person who is a local planning authority for the purposes of any provision of Part 3 of the Town and Country Planning Act 1990;

“prescribed authority” means an authority exercising functions of a public nature in England which is specified for the purposes of this section by regulations made by the Secretary of State.

(10) Regulations under subsection (9) are subject to the negative procedure.’—(*Rebecca Pow.*)

This new clause gives Natural England the function of producing species conservation strategies and makes related provision.

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

New Clause 26

PROTECTED SITE STRATEGIES

(1) Natural England may prepare and publish a strategy for—

- (a) improving the conservation and management of a protected site, and
- (b) managing the impact of plans, projects or other activities (wherever undertaken) on the conservation and management of the protected site.

(2) A strategy under subsection (1) is called a “protected site strategy”.

(3) A “protected site” means—

- (a) a European site,
- (b) a site of special scientific interest, or
- (c) a marine conservation zone,

to the extent the site or zone is within England.

(4) A protected site strategy for a protected site may in particular—

- (a) include an assessment of the impact that any plan, project or other activity may have on the conservation or management of the protected site (whether assessed individually or cumulatively with other activities),
- (b) include Natural England’s opinion on measures that it would be appropriate to take to avoid, mitigate or compensate for any adverse impact on the conservation or management of the protected site that may arise from a plan, project or other activity,

- (c) identify any plan, project or other activity that Natural England considers is necessary for the purposes of the conservation or management of the protected site, and
- (d) cover any other matter which Natural England considers is relevant to the conservation or management of the protected site.
- (5) In preparing a protected site strategy for a protected site, Natural England must consult—
- (a) any local planning authority in England which exercises functions in respect of an area—
- (i) within which any part of the protected site is located, or
- (ii) within which a plan, project or other activity that Natural England considers may have an adverse impact on the conservation or management of the protected site is being, or is proposed to be, undertaken,
- (b) any public authority in England—
- (i) that is undertaking, or proposing to undertake, a plan, project or other activity that Natural England considers may have an adverse impact on the conservation or management of the protected site,
- (ii) the consent or approval of which is required in respect of a plan, project or other activity that Natural England considers may have an adverse impact on the conservation or management of the protected site, or
- (iii) that Natural England considers may otherwise be affected by the strategy,
- (c) any IFC authority in England which exercises functions in respect of an area—
- (i) the conservation or management of which Natural England considers may be affected by the strategy, or
- (ii) the sea fisheries resources of which Natural England considers may be affected by the strategy,
- (d) the Marine Management Organisation, where—
- (i) any part of the protected site is within the MMO's area, or
- (ii) Natural England considers any part of the MMO's area may otherwise be affected by the strategy,
- (e) the Environment Agency,
- (f) the Secretary of State, and
- (g) any other person that Natural England considers should be consulted in respect of the strategy, including the general public or any section of it.
- (6) In subsections (4) and (5), a reference to an adverse impact on the conservation or management of a protected site includes—
- (a) in relation to a European site, anything which adversely affects the integrity of the site,
- (b) in relation to a site of special scientific interest, anything which is likely to adversely affect the flora, fauna or geological or physiographical features by reason of which the site is of special interest,
- (c) in relation to a marine conservation zone, anything which hinders the conservation objectives stated for the zone pursuant to section 117(2) of the Marine and Coastal Access Act 2009, and
- (d) any other thing which causes deterioration of natural habitats and the habitats of species as well as disturbance of the species in the protected site, in so far as such disturbance could be significant in relation to the conservation or management of the protected site.

(7) A person whom Natural England consults under subsection (5)(a) to (e) must co-operate with Natural England in the preparation of a protected site strategy so far as relevant to the person's functions.

(8) The Secretary of State may give guidance as to how to discharge the duty in subsection (7).

(9) A person must have regard to a protected site strategy so far as relevant to any duty which the person has under—

- (a) the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012),
- (b) sections 28G to 28I of the Wildlife and Countryside Act 1981, or
- (c) sections 125 to 128 of the Marine and Coastal Access Act 2009.

(10) Natural England may, from time to time, amend a protected site strategy.

(11) The duty to consult a person under subsection (5) also applies when Natural England amends a protected site strategy under subsection (10) so far as the amendment is relevant to the person's functions.

(12) In this section—

“England” has the meaning given in section (Species conservation strategies);

“European site” has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2017;

“IFA authority” means an inshore fisheries and conservation authority created under section 150 of the Marine and Coastal Access Act 2009;

“local planning authority” has the meaning given in section (Species conservation strategies);

“marine conservation zone” means an area designated as a marine conservation zone under section 116(1) of the Marine and Coastal Access Act 2009;

“MMO's area” has the meaning given in section 2(12) of the Marine and Coastal Access Act 2009;

“public authority” has the meaning given in section 40(4) of the Natural Environment and Rural Communities Act 2006;

“sea fisheries resources” has the meaning given in section 153(10) of the Marine and Coastal Access Act 2009;

“site of special scientific interest” means an area notified under section 28(1) of the Wildlife and Countryside Act 1981.” —(*Rebecca Pow.*)

This new clause gives Natural England the function of producing protected site strategies and makes related provision.

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

New Clause 27

WILDLIFE CONSERVATION: LICENCES

(1) In section 10 of the Wildlife and Countryside Act 1981 (exceptions to section 9 of that Act), in subsection (1)—

- (a) in paragraph (a), omit the final “or”;
- (b) at the end insert “or
- (c) anything done in relation to an animal of any species pursuant to a licence granted by Natural England under regulation 55 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) in respect of an animal or animals of that species”.

(2) In section 16 of that Act (power to grant licences), in subsection (3)—

- (a) in paragraph (h), omit the final “or”;
- (b) at the end insert “or
- (j) in England, for reasons of overriding public interest”.

(3) In that section, after subsection (3A) insert—

“(3B) In England, the appropriate authority shall not grant a licence under subsection (3) unless it is satisfied—

- (a) that there is no other satisfactory solution, and
- (b) that the grant of the licence is not detrimental to the survival of any population of the species of animal or plant to which the licence relates.”

(4) In that section, in subsections (5A)(c) and (6)(b), after “two years,” insert “or in the case of a licence granted by Natural England five years.”

(5) In that section, in subsection (9)(c), after “to (e)” insert “or (j)”.

(6) In the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), in regulation 55(10), for “two years” substitute—

“(a) five years, in the case of a licence granted by Natural England, or

(b) two years, in any other case.”—(*Rebecca Pow.*)

This new clause makes provision relating to licences granted under regulation 55 of the Conservation of Habitat and Species Regulations 2017 and section 16 of the Wildlife and Countryside Act 1981.

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

New Clause 31

USE OF FOREST RISK COMMODITIES IN COMMERCIAL ACTIVITY

“(1) In Schedule (Use of forest risk commodities in commercial activity)—

- (a) Part 1 makes provision about the use of forest risk commodities in commercial activity,
- (b) Part 2 makes provision about enforcement, and
- (c) Part 3 contains general provisions.

(2) Regulations under the following provisions of Schedule (Use of forest risk commodities in commercial activity) are subject to the affirmative procedure—

- (a) paragraph 1;
- (b) paragraph 2(4)(c);
- (c) paragraph 5 (except for paragraph 5(2)(b) and (5));
- (d) paragraph 7;
- (e) Part 2.

(3) Regulations under the following provisions of Schedule (Use of forest risk commodities in commercial activity) are subject to the negative procedure—

- (a) paragraph 3;
- (b) paragraph 4;
- (c) paragraph 5(2)(b) and (5).”—(*Rebecca Pow.*)

This new clause inserts NS1 and specifies the Parliamentary procedure for making regulations under that Schedule.

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

New Clause 1

THE ENVIRONMENTAL OBJECTIVE

“(1) The environmental objective is to achieve and maintain a healthy natural environment.

(2) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures arising from this Act must be enforced, allowed and followed for the purpose of contributing to achievement of the environmental objective.”—(*Dr Whitehead.*)

This new clause is intended to aid coherence in the Bill by tying together separate parts under a unifying aim. It strengthens links between the target setting framework and the delivery mechanisms to focus delivery on targets.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 9.

Division No. 47]

AYES

Anderson, Fleur	Whitehead, Dr Alan
Furniss, Gill	
Jones, Ruth	Zeichner, Daniel

NOES

Afolami, Bim	Graham, Richard
Bhatti, Saqib	Mackrory, Cherilyn
Browne, Anthony	Moore, Robbie
Crosbie, Virginia	Pow, Rebecca
Docherty, Leo	

Question accordingly negatived.

New Clause 2

ENVIRONMENTAL STANDARDS: NON-REGRESSION

“(1) The Secretary of State has a duty to ensure that there is no diminution in any protection afforded by any environmental standard which was effective in UK domestic law on IP completion day.

(2) In this section, “IP completion day” has the same meaning as in section 39 of the European Union (Withdrawal Agreement) Act 2020.”—(*Daniel Zeichner.*)

This new clause looks to set a floor of environmental standards by taking a snapshot of EU standards at the end of the implementation period and giving the Minister a duty to uphold those standards as a minimum.

Brought up, and read the First time.

Daniel Zeichner (Cambridge) (Lab): I beg to move, That the clause be read a Second time.

10 am

I echo the earlier congratulations. It is a pleasure to pick up the baton from my hon. Friend the Member for Southampton, Test, and to continue the dialogue with the Minister on a really important point. I remember the 2005 election. My party had a particularly incisive slogan, “Forward, not back”. It got us through the election, but I remember wondering at the time whether it was the most incisive view of the world. It represented an assumption that we do all look forward rather than going back. There is a risk in thinking that, which we can see in global politics at the moment—in America. Many of us feel that, hopefully, we are going forward, but when the previous President took the US out of the Paris agreement, in many people’s point of view we went backwards. There can be no presumption that the gains made in the past are necessarily guaranteed for the future.

Much as I admire the Minister’s enthusiasm and optimism, readings of history show that gains are not always maintained. As my hon. Friend the Member for Southampton, Test has pointed out, even when legislation looks as if we have done stuff, we can find that not much has happened when we go into the fine detail. There can sometimes be a deliberate attempt to pull the wool over the eyes of the public, or there can be other reasons.

The non-regression issue is really significant, because environmental law was an area on which we made progress when we were members of the European Union;

people might take different views on our relationship with the EU, but we would still be able to agree that we made progress on environmental law. Much of the business of the Bill has been about how we move that into our domestic legislation.

The headline that the Government want from our discussions is that our aspirations are to be world-leading, as the Minister has said. But without tackling the regression issue, it is harder to make the case that we will be at the forefront. I strongly suggest that the Minister looks at the new clause, because it provides clarity and certainty. It sends a signal to the wider world that we are absolutely serious about our ambition to ensure that we are at the forefront of environmental protection.

There is a danger in thinking that this is just re-running the Brexit debate again; people tried to raise that on a number of occasions. In my reading ahead of discussion of the new clause, it struck me that environmental law is not simple. Environmental lawyers are a slightly niche species, but they explain that this is a question not of slavishly following whatever the EU chooses to do in the future, but of establishing that we do not go back. Some people in the field think that non-regression is an exciting and emerging norm for environmental law, with which we should be associated. They point us to international instruments, such as the 2015 International Union for Conservation of Nature draft international covenants on environment and development, the 2017 draft Global Pact for the Environment, and the 2018 Escazú agreement for the Americas, which mirrors the Aarhus convention.

The point is that how we make progress globally is not always linear. It is complicated and in some cases involves difficult trade-offs and difficult historical understandings of the advantages that we have as a developed nation, as we try to balance the pressures that we put on other nations as they try, rightly, to improve their standard of living. It is a complicated ratcheting process that requires difficult trade-offs.

As my hon. Friend the Member for Southampton, Test suggested, trade-offs have to be made within our own Government, but there are also complicated negotiations with others. Other countries, such as France, have recently incorporated non-regression into their environmental codes, which has allowed the courts to make a number of judgments on the application of that principle. Mr Gray, I think this issue is sufficiently important for a Division, but first I want to make one or two more comments.

In my reading, I looked at a paper by Professor Andrew Jordan and Dr Brendan Moore, who have been looking closely at what we do in this place. They have analysed the statutory instruments that so many of us enjoy sitting and discussing. Sadly, they have come to some rather worrying conclusions. I suspect that all of us who read such instruments do not necessarily get into the small print, but they have discovered that many of the EU provisions had review and revision clauses in them, which allow legislation to be considered again to see whether it is doing what we thought it was going to do. It is one of the shortcomings of the work we do in this place: we pass many laws but do not necessarily come back to them in a timely way to check whether the outcomes were as we hoped and whether they need updating. Apparently, a development in EU law has meant that this has become more and more the case.

When Ministers make those SIs—I frequently moan about this—we are told that they are just technical changes bringing the legislation into UK law. It appears that there may be a little bit more to it than that. The paper analysed some 24 SIs; the authors found that 88%—21 of the 24—of EU laws

“contained review clauses and 79%...contained revision clauses.” Unfortunately, in many cases we have not moved those review and revision clause across.

“The Government removed the clauses across a number of topic areas, spanning climate change, waste, agriculture, and heavy metals.”

To my dismay, I discovered that some of those were the very SIs that I have been working on recently, including the Timber and Timber Products and FLEGT (EU Exit) Regulations 2018, which apparently did have a review and revision clause when they were part of EU law, but no longer have them under our law. There was a similar case in the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019.

My point is that, when one looks at the fine detail, not all was as it seemed. Sadly, our protections are not as strong as they were. That is the theme of most of my contributions. We will be less well protected next month than we are today. That is why the non-regression principle is so very important. I commend it to the Minister and ask her to take the advantage that we are yet again offering her and which would strengthen her Bill.

Fleur Anderson (Putney) (Lab): The clock is ticking: we are only five weeks away from the end of the famous implementation period. This amendment seeks to freeze that in time and say that in five weeks’ time there will be no regression or diminution in any protection afforded by any environmental standard effective in UK domestic law. Surely that is the most important part of the Bill. At least we could say that the Environment Bill is being brought forward to replace, renew and look beyond all the environmental protections that we will not have when we are not an EU member: that we will do better than that—or at least, not regress. If the amendment is not agreed to, we are worried that we will not have that safeguard.

The Government have frequently stated their desire to improve the quality of our environment and protect our existing environmental standards. Why, then, do they stop short of enacting an unambiguous and binding requirement not to regress on existing rules, as would be enacted through the amendment? This is not about staying tied to EU rules. As the shadow Minister says, we are not re-enacting Brexit at all; rather, we are ensuring that the UK rules get better and better over time and are protected from deregulatory pressure.

Non-regression is an exciting and emerging norm of environmental law, and we need to harness its potential. That requires a positive trajectory for environmental standards, with the ultimate goal of progressively improving the health of people and the planet. There is a precedent, as was mentioned, in other international laws and instruments. Non-regression can be found explicitly in international instruments, such as the 2015 International Union for Conservation of Nature draft international covenant on environment and development, the 2017 draft global pact for the environment and the 2018 Escazú agreement, which mirrors the Aarhus convention for the Americas. It is important to mention those because

[*Fleur Anderson*]

there is precedent. We cannot say that such a provision is unnecessary and does not need to be done. It should be added to the Bill.

To underscore why we, as the Opposition, feel so strongly about the issue, one need only look at how much the UK's environment has benefited from the EU framework that the Bill is replacing. In the 1970s, we pumped untreated sewage straight into the sea, but EU laws and the threat of fines, as well as good enforcement, forced us to clean up our act. Now, more than 90% of our beaches are considered clean enough to bathe off. I have yet to hear a meaningful reason why the Government would not at least commit to the new clause. To say that it is not necessary is just bluster and evades the issue, and it is just not good enough.

If we are to put our money with our mouth is, the new clause should be added to the Bill, especially because it would match our ambition as we host COP26 next year. It would be a meaningful legal commitment to non-regression, and in turn a powerful endorsement of the Government's stated ambitions to be world leaders on environmental matters. It would create an authoritative platform from which the UK could seek to improve global green governance. There is nothing to lose by adopting the new clause and everything to gain.

10.15 am

Rebecca Pow: I thank the hon. Members for Cambridge and for Putney for their input. The hon. Member for Cambridge seemed to suggest that my optimism and enthusiasm are negative assets, but I would never even have started my journey to this place if I had not had such optimism and enthusiasm; I am sure the same could be said of every Member here.

I vowed all that time ago that I would engage with environmental issues should I ever make it to Parliament. Lo and behold, here we are discussing the Environment Bill. I know that the hon. Gentleman is very passionate about the environment, and I like to think that he is just teasing me, because he knows that while I and my colleagues are in office, we will stand up for everything in the Bill. We hope that future Governments will do the same, because that is the purpose of the legislation.

The new clause, which aims to tie the UK to EU law at the end of the transition period, is unnecessary. To put it simply, we have left the EU and we should not bind ourselves to the legislative systems of the past. The Government made it very clear that the UK will continue to be a global leader, championing the most effective policies and legislation to achieve our environmental ambitions. I believe that we have demonstrated that even today with the due diligence clause. We will continue to improve on our environmental standards, building on existing legislation as we do so.

Ruth Jones: The Minister is making some interesting points, but does she agree that this is not about staying tied to the EU's apron strings but about UK rules getting better and better? The new clause provides us with a baseline to improve on.

Rebecca Pow: The hon. Lady leads me neatly on to say that the UK does not need the EU to improve the environment; our high regulatory standards on environmental protection are not dependent on EU

membership. Rightly, one could say that over the years we have taken on board standards, such as those governing sewage in water, but we have actually influenced a lot of European policy. Now we are going further. We often led the way, as members of the EU will acknowledge.

To continue with the same approach as the EU is not good enough. I know that many members of the Committee are well aware of the damaging effects of some EU policies, in particular the common agricultural policy. The thought behind it was good, but the environmental consequences are not necessarily to be lauded. That is why we now have this great opportunity to change it, as we must. We will do better.

Lest everyone always thinks that the EU offers some gold-plated system, let me give some examples of where we have already gone ahead of it. For a start, we were the first major economy to legislate for net-zero emissions by 2050. Another good example is the UK's landfill tax, which is one of the highest in Europe and has been effective in reducing waste disposal and increasing recycling. The UK has also introduced one of the world's strictest ivory bans to protect elephants from poaching, whereas the EU has yet to legislate on that. Similarly, our clean air strategy has been applauded by the World Health Organisation as an example for the rest of the world to follow.

I must also mention the UK's microbeads ban, which shows the power of the Back Benchers who worked on it; just the other day, my involvement and that of many others was cited in the Chamber. That ban came into effect in 2018, but the EU did not move to introduce an equivalent ban until a year later. Those are just a few examples, not to mention our recent ban on single-use plastics—plastic straws, drink stirrers and cotton buds—coming into force in October 2022. We are ahead in many cases.

There are concerns about non-regression, but surely, after we have sat here for weeks going through the Bill with a fine-toothed comb, it is obvious that we have a real, detailed framework of targets, monitoring and reporting. We are then to be held to account on whether the improvement is actually occurring: Parliament will be able to scrutinise. There will be a closer watch on these things than ever before, which is a good thing. The Secretary of State is required to report to Parliament every two years on what is happening on the environmental front internationally—to look at the new environmental laws being introduced, sift through them and work out which ones would benefit us.

Dr Whitehead: Would the Minister at least agree that nothing in the new clause suggests that we should be pegged to EU law, as we were in the past? It simply says that a snapshot should be taken at the point of departure, so that there is something to stand on when it comes to things that we wish to carry out in the future. Far from pegging us back, it actually supports the sort of thing the Minister is suggesting.

Rebecca Pow: We have reached that point already. We have been in the EU, so have had all the same laws. We are not going to sweep them all away, but we will build on them. When that review of international law is done, the EU laws will also be looked at.

I think we have covered what the hon. Member for Cambridge is asking for. On the SI points—I am very interested that the hon. Gentleman has looked at that

report about the SIs—I should say that, three to five years after Royal Assent, the responsible Department must submit a memorandum to the relevant Commons departmental Select Committee, published as a Command Paper. The memorandum will include a preliminary assessment of how the Act has worked in practice, relative to objectives and benchmarks identified during the passage of the Bill and in supporting documentation.

The Select Committee, or potentially another Committee, will then decide whether it wishes to conduct a further post-legislative inquiry into the Act. Perhaps we should send that to the authors of that report, because perhaps they were not aware of it. I think it is really helpful, and I hope that it helps.

I have not yet mentioned the OEP, which will help to uphold our standards as well. It will be absolutely essential, ensuring Governments are held to account for the environmental performance I mentioned before. All that goes further than the EU's environmental governance framework, with stronger binding remedies available to the courts and a wider scope to hold all public authorities to account on the environment. It is much wider.

Our sovereign Parliament must be able to fully realise the benefits of regulatory autonomy in order to take action on improving environmental protections in the future. To support parliamentary scrutiny of our ambitions, the Bill contains provisions in clause 19 that allow Parliament to hold the Government to account on delivering their commitments to improving environmental protections, and where a new Bill contains environmental provisions, the Ministers in charge of that Bill—who will potentially be Ministers in other Departments—will be required to make a statement confirming whether it maintains the level of environmental protection in place at the time of the Bill's introduction. I hope that has been helpful, and I ask the Opposition if they now might withdraw the new clause.

Daniel Zeichner: I do not think the Minister will be surprised to hear that I am not convinced and will not be withdrawing the amendment. The reason we are not convinced is that there is nothing wrong with optimism, but it has to be tempered by realism, and frankly, as we have seen at the very top of this Government over the past few months, optimism does not always produce results. Looking at the state of our economy, I suspect that we are facing a hard winter and the pressures that will be put on environmental protections will be intense. It is not unreasonable for us on the Opposition Benches to once again remind Government Members about comments made by the current Prime Minister and previous Conservative leaders. The green crap is still the green crap, as far as some are concerned—*[Interruption.]* That was said by a Conservative Prime Minister.

Rebecca Pow: I ask the hon. Gentleman to withdraw that remark and stop referring to that. We have moved echelons from there, and it is really unfair that this keeps being dredged up by the Opposition, who themselves do not have a great record on the environment. Does he agree?

Daniel Zeichner: The Minister might well wish it had not been said, and I wish it had not been said, but it was.

Richard Graham: You heard it, did you?

Daniel Zeichner: It was widely reported and not denied.

The Chair: Order.

Richard Graham: On a point of order, Sir George. Is it appropriate in this Environment Bill Committee, where we are discussing serious issues, for a Member, however well intentioned, to raise a supposed quote by a former Prime Minister from several years ago, which he certainly never heard—none of us heard it—in language that is arguably not particularly parliamentary?

The Chair: That, of course, is not a matter of order; it is a matter of content.

Daniel Zeichner: The point I am making is that all Governments will face a dilemma and a pressure when it comes to economic imperatives and environmental protection. We have seen as much in the response to questions I raised about the impact of the planning White Paper, which have not been addressed by the Government. I understand why they have not been addressed—because they are not addressable. There is a tension, and the question we are asking is: when those pressures come—as they will—is this legislation strong enough to protect our environment? The Minister says it is; I say it is not, and that is the difference. I am sure the hon. Member for Gloucester appreciates the point I am making, because it can hardly be denied that there is a tension. If he thinks there is not a tension, that is great, but that is a different world from the one I am living in.

The non-regression issues go beyond the EU question. The point we are making is that a worldwide set of negotiations will continue, hopefully in a more positive way with the new American Administration, and non-regression will be part of those wider discussions. Exactly as my hon. Friend the Member for Southampton, Test has said, this new clause does no more than establish a baseline from which we believe we should be moving, and we see no reason to not put it in the Bill.

I hear what the Minister says about the review and revision clauses that were in the transposed legislation, but I gently say that when that comes up, it will be a very big piece of work, given the number of statutory instruments we have been discussing. In fact, as I think most of us appreciate, once we start digging into them, it often opens up a cornucopia of riches in terms of issues to look at, and we see that what looked like a very simple transposition is actually extremely complicated. We think non-regression is really important, and that is why we intend to press this new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 48]

AYES

Anderson, Fleur
Furniss, Gill
Jones, Ruth

Thomson, Richard
Whitehead, Dr Alan
Zeichner, Daniel

NOES

Afolami, Bim
Bhatti, Saqib
Browne, Anthony
Crosbie, Virginia
Docherty, Leo

Graham, Richard
Mackrory, Cherilyn
Moore, Robbie
Pow, Rebecca

Question accordingly negatived.

New Clause 3

WELL CONSENTS FOR HYDRAULIC FRACTURING:

CESSATION OF ISSUE AND TERMINATION

“(1) No well consent which permits associated hydraulic fracturing may be issued by the Oil and Gas Authority (“OGA”).

(2) Sections 4A and 4B of the Petroleum Act 1998 (as inserted by section 50 of the Infrastructure Act 2015), are repealed.

(3) Any well consent which has been issued by the OGA which—

- (a) permits associated hydraulic fracturing and
- (b) is effective on the day on which this Act receives Royal Assent shall cease to be valid three months after this Act receives Royal Assent.

(4) In this section—

‘associated hydraulic fracturing’ means hydraulic fracturing of shale or strata encased in shale which—

- (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
- (b) involves, or is expected to involve, the injection of—

‘well consent’ means a consent in writing of the OGA to the commencement of drilling of a well.”—

(*Dr Whitehead.*)

This new clause, as a response to recent hydraulic fracturing exploration activity including in Rother Valley, would prevent the Oil and Gas Authority from being able to provide licences for hydraulic fracturing, exploration or acidification, and would revoke current licences after a brief period to wind down activity.

Brought up, and read the First time.

10.30 am

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

This new clause concerns well consents for hydraulic fracturing: cessation of issue and termination. Hon. Members may ask themselves, “What has fracking got to do with this Bill? Why is there a new clause about fracking when we are talking about other issues entirely?” I would contend that fracking, or potential fracking, is central to many of the issues that we have discussed. The current fracking regime and whether or not wells are being fracked cut across, potentially considerably so, the Bill’s protections and provisions relating to the natural environment, biodiversity and various other issues. There are a number of worrying issues relating to how fracking is carried out, how its consequences are dealt with, and how its by-products come about and are or are not disposed of.

I am sure that hon. Members will have access to a fair amount of information about the fracking process and that they will be aware that, as far as this country is concerned, it has not got very far. The Cuadrilla well in Preston was paused on the grounds that it caused earthquakes when the fracking process began. Although the then BEIS Secretary, the right hon. Member for South Northamptonshire (Andrea Leadsom), used a provision to direct that that particular drilling company should not proceed, that provision also allowed for corners to be cut on standards, so that it could get going with the fracking process. The standard relating to seismic disturbance was only a small part of the substantial environmental consequences to which the widespread introduction of fracking would give rise.

Mercifully, fracking is not used substantially in this country, but it is in other countries. When I visited Texas some time ago, I went to Austin, which is right in

the middle of the fracking industry, in the large, relatively easy-to-access basin that covers a lot of Texas and in which a lot of fracking wells have been drilled. As we came into the airport, we could see ahead of us what looked like a moonscape. There was a large number of circular pads with extraction equipment covering the landscape as far as the eye could see. It also glistened in the sun, inasmuch as attached to those fracking pads were a number of what looked like ponds or small lakes. It looked like a landscape of lakes, but it was not. It was a landscape of tailing ponds associated with the fracking pads, and in which were placed the results of the fracking process—the fracking fluid that had been used to blast the rocks apart, which contained substantial chemicals to assist in that process. If they were to be produced in this country in the quantities suggested—at least 10,000 or so cubic metres of fluid per fracking pad—they would be classed as hazardous waste and would need to be disposed of very carefully. There are actually very few hazardous waste sites in this country that can take that kind of waste. The solution in the United States was that, on some occasions, they injected the waste back down into deep basins, which is not ideal. Alternatively, they just kept it on the surface in tailing ponds on the landscape. That could be the future for us, if we were to develop fracking to any great extent.

As I say, we have had only two goes at fracking in this country so far. They happened to be in two areas of the UK that contain the seams from which gas can be extracted through the fracking process. One is the Bowland shale in the north-west of the country, which happens to encompass the Lake District national park. The other is across the Weald and into South Downs national park, an area of outstanding natural beauty that goes across Sussex and into Hampshire. If we had a substantial fracking industry in the UK, wells would be drilled in those two concentrated areas. There would be a concentration of wells in that precious landscape, possibly like the concentration that I saw in Austin, Texas.

The Infrastructure Act 2015 placed restrictions on where fracking can take place, but it did not have a great deal of traction in this country. Modern fracking can proceed by diagonal drilling; it does not have to involve drilling down. An interesting discussion emerged about the extent to which parts of the country could be declared to be surfaces on which fracking should not take place. The Government of the day identified some areas of outstanding beauty and national parks as areas where fracking should not take place, but all people need to do is set up a fracking plant right on the boundaries of a national park and drill diagonally.

Fleur Anderson: Does my hon. Friend agree that if the new clause is not agreed to and fracking is not stopped, that will undermine a lot of the biodiversity and ecosystem protection elsewhere in the Bill? It is bad for the climate, the environment and pollution, and local people do not want it either.

Dr Whitehead: I thoroughly agree with my hon. Friend about a regime of substantial fracking. All that has happened at the moment is that fracking has been paused. All the infrastructure requirements and legislation allowing fracking on a reasonably unrestrained basis are still in place, so it is more than possible that a future Government, or indeed this Government, might decide that they no longer wish to pause fracking. Everything

is ready to go. As she said, this raises the question not only of what happens to the fracking fluid but of the escape of fugitive emissions between the well being produced and the gas being conveyed. Indeed, it is the practice, when fracking has been completed, to have a so-called flare-off to clean the well's tubes, as it were. Enormous amounts of gas mixed with elements of the fracking fluid are released into the atmosphere and simply flared.

We understand that fracking sites will have multiple wells drilled with a very large amount of transport involved, with traffic coming to remote countryside areas, the levelling of an area several football pitches wide to make the pad, and a host of other things that result in environmental despoliation in pursuit of fracking. There are also the long-term consequences when the well is depleted: will it be re-fracked? If it is depleted, will it be properly capped off? One of the problems in Texas now is that the fracking wells have not proved to be as bountiful as had been thought—what a surprise—and several have simply been abandoned with little done to cap them off. There can be a regime for doing that properly, but in the countryside where the fracking has taken place, there is continuing danger and concern in respect of surface water and water in seams underground.

Ruth Jones: My hon. Friend is making a powerful point. Does he agree that it is the unforeseen consequences that are so dangerous with fracking? We do not know what we do not yet know. In the mining industry near my constituency, we have mountain-top villages that are at risk of subsidence because of the extensive mine workings underneath. We need to be very careful about what we wish on future generations.

Dr Whitehead: That is an important point. These things do not appear and simply go away. An example of something that does appear and then go away is onshore wind. When the turbine's life is up, it can simply be taken away. That is an advantage of that form of power, but this form of power leaves in its wake enormous environmental scars and a substantial legacy of worry for the communities in which it has taken place, even after it has finished its life. If the well is to be properly exploited, there is the potential legacy of re-fracking on several occasions when all that stuff starts again to keep the well producing. It is a grubby, dirty, environmentally unfriendly, legacy-rich business that we surely should not be inflicting upon ourselves in pursuit of something that we should leave in the ground anyway.

In an era when we say that our dependence on fossil fuel will greatly decrease—indeed, companies such as British Petroleum have said that they will cut down substantially the amount of oil that they get out of the ground, and that they will move into different areas—it does seem strange for us to be encouraging an activity that involves trying to locate the most securely fastened bits of climate-damaging hydrocarbons from the soil, blast them out of solid rock and bring them to the surface to use for fossil fuel activities. As far as this is concerned, I think the watchword is, “Just leave it in the ground.”

That is why we have given the Bill an opportunity to include protection against that happening—and, indeed, protection against the conflict that I believe exists between the Infrastructure Act 2015 and this Bill, in terms of

which permissions override which protections, particularly as far as fracking is concerned. We have an opportunity to set out in the Bill that no well consents will be given, and that fracking will not take place in this country. The new clause essentially says that the Oil and Gas Authority will not issue well consents, with all the consequences that I have set out; and that permits that have been given should lapse over a period of time and the work should not be undertaken.

This is a serious issue for the future of our environment and for environmental protection, and we have the ability, literally at the stroke of a pen, to put it right in this Bill. We can put it beyond doubt that—no matter whether there is a pause, whether there are concerns about earthquakes, or whether there are concerns about the environmental consequences of wells drilled in particular places—we will grasp the issue firmly by the scruff of the neck and say, “No more. We are not doing this. It is not good for our environment, and we won't have it anymore.”

I hope that hon. Members across the Committee will join us in making sure that that is part of the clean, safe and enjoyable environmental future that we all want to strive for, by agreeing to add the new clause to the Bill.

10.45 am

Rebecca Pow: In the last 25 minutes, we have been all the way to Texas and back, we have been up north and we have been all over the place. I thank the hon. Member for Southampton, Test for his proposed amendment. The Government continue to recognise the importance of natural gas as a source of secure and affordable energy as we aim to reach net zero emissions by 2050. Natural gas still makes up around a third of our current energy usage, and we will need it for many years to come, even as we decarbonise. I know that the shadow Minister has a great deal of knowledge and interest in the energy sector, but I am sure he understands that.

The Government have always been clear that the development of domestic energy sources, including shale gas, must be safe for local communities and for the environment. With regard to fracking and shale gas development, the Government have taken a science-led approach to exploring the potential of the industry, underpinned by world-leading environmental and safety regulations. In addition to a traffic light system to monitor real-time seismic activity during operations—with a clear framework of stopping operations in the event of specified levels of seismic activity—the Government also introduced tighter controls over the shale gas industry through the Infrastructure Act 2015.

A well consent is essentially permission to drill an oil or gas well, and it is required from the Oil and Gas Authority before an operator can explore for oil and gas onshore in the UK. All well consents issued by the OGA on or after 6 April 2016 contain a further requirement for operators to obtain hydraulic fracturing consent from the Secretary of State for Business, Energy and Industrial Strategy before carrying out any associated hydraulic fracturing. That consent ensures that all necessary environmental and health and safety permits have been obtained before activities can commence.

The current definition of “associated hydraulic fracturing” is based on the approach taken by the European Commission, which I am sure the shadow

[Rebecca Pow]

Minister welcomes. Using that definition sets the right balance between capturing hydraulic fracturing operations and not capturing techniques used by conventional oil and gas operations, or more widely in the water industry, where processes such as acidisation are commonly used to clean wells after drilling.

The Environment Agency reviews any proposal involving the use of acid on a site-specific basis before deciding whether the activity is acceptable. The agency's regulatory controls are in place to protect people and the environment, quite clearly. If the proposed activity poses an unacceptable risk, a permit will not be granted.

We have had such an eloquent description of what goes on in the US. The hon. Member for Southampton, Test paints a very clear picture of that lovely trip—although, it was probably not all that lovely, seeing that moonscape. Comparisons are not necessarily helpful because, of course, in the UK we have an entirely different regulatory system. Construction standards in the UK are robust and regulators have the tools to ensure that the risk of pollutants entering groundwater is minimised.

The EA also assesses the hazards presented by fracking fluid additives on a case-by-case basis and will not allow hazardous substances to be used where they may enter the groundwater and cause pollution. The EA has the power to restrict or prohibit the use of any substances where they pose an environmental risk. The shadow Minister touched on hazardous waste and flow-back fluids, which include fracking fluids. They are deemed to be mining waste and require an environmental permit for management onsite. Disposal of flow-back fluids must be at a regulated waste treatment works, which are also regulated by the EA. Shale gas operators must demonstrate that where any chemicals are left in the waste frack fluid, it will not lead to pollution in groundwater. I think it is quite clear that we have a very tight system already in place, which will address many of the issues raised by the shadow Minister.

Let us move on to what has happened recently, when I was involved as a Back Bencher, as were many colleagues. The Government announced in November 2019 that, although any application would be considered on its merits, in the absence of compelling new evidence, they will take a presumption against issuing any further consents for hydraulic fracturing for shale gas extraction, creating a moratorium.

The Government set out their position in full via a written statement to the House on 4 November 2019, and we are satisfied that the current regulations ensure that appropriate safeguards are in place. We therefore have no plans to repeal sections 4A and 4B of the Petroleum Act 1998, as inserted by section 50 of the Infrastructure Act 2015, and nor will we direct the OGA to withhold well consents that include provisions for associated hydraulic fracturing.

There are no plans to turn the moratorium on shale gas extraction into a ban. The moratorium will be maintained unless—this is absolutely crucial—compelling new evidence is provided to address the concerns about the prediction and management of induced seismicity. Such evidence is, it must be said, yet to be presented. I therefore respectfully ask the hon. Gentleman to withdraw his amendment.

Dr Whitehead: The Minister has kindly and gently made quite a good case on our behalf. She has confirmed what we have said: in the UK, we are not talking about an end to or a ban on fracking, or indeed a resiling from the circumstances under which fracking was set up as an activity in the UK. The word “moratorium” means a pause; it does not mean the end of anything. It can be a more or less lengthy pause, as the Minister suggested, but it is still a pause, so the way is open for fracking to come back to this country if, as the Minister said, the circumstances permit that.

I agree with the Minister that the regimes in this country and in the US are not the same. The moonscape near Austin that I mentioned is a worse-case scenario—that is true—but even in the early applications for fracking in this country, there was pressure on the Government to cut corners. There were applications for tailing ponds, however briefly they would have been in place. A number of the environmental issues around fracking that I have mentioned would come to this country—not to the same extent as in the US, but they certainly would be part of the fracking process were it to recommence.

There are other differences between the US and the UK in terms of who owns the surface of the land. In this country, the Queen effectively has a hand in the ownership of the surface of the land, while in America, people can buy the rights to what is underneath someone's land, drive a truck on to it and start drilling, because they have the right of access through the land to what is underneath it. That is not the case in this country. Indeed, as the Minister set out, the Infrastructure Act 2015 introduced a number of constraints on what can and cannot be done, and what cannot be done is along the lines of exactly what is done in America. The Government have nevertheless put forward, in a number of papers that they have published, a prospectus on how much fracking there would be in this country and where it would be undertaken. That would have a substantial impact on the environment in a country that is nothing like Texas.

Texas is enormous and, as everyone knows, this country is not. Not only is this country not enormous, but the shale to frack is specified as being concentrated in particular parts of it. Those areas, as I have emphasised, cover some of the most precious and beautiful parts of our country, and we should really go out of our way to preserve them and ensure that they continue, as much as possible, in their present state.

11 am

I was disappointed by what the Minister had to say about the fracking regime generally, but I accept her point that the intention in this country is to try to ensure that there are much higher standards for fracking permissions than in other parts of the world. I therefore do not think that I can withdraw the amendment. We need to make the point that we think this is important and should be part of the Bill, and to express our concern that the Minister does not agree with us and countenances—I would not say she is happy about it—the continuation of a regime that will allow this to happen in the future if circumstances permit it.

Question put. That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 9.

Division No. 49]

AYES

Anderson, Fleur	Whitehead, Dr Alan
Furniss, Gill	
Jones, Ruth	Zeichner, Daniel

NOES

Afolami, Bim	Graham, Richard
Bhatti, Saqib	Mackrory, Cherilyn
Browne, Anthony	Moore, Robbie
Crosbie, Virginia	Pow, Rebecca
Docherty, Leo	

Question accordingly negated.

New Clause 5

ENVIRONMENTAL AND HUMAN RIGHTS DUE DILIGENCE:

DUTY TO PUBLISH DRAFT LEGISLATION

“(1) The Secretary of State must, within the period of six months beginning with the day on which this Act is passed, publish a draft Bill on mandatory environmental and human rights due diligence which imposes a duty on specified commercial, financial and public sector persons to—

- (a) carry out due diligence in relation to all environmental and human rights risks and impacts associated with the exercise of their functions, and
- (b) identify, assess, prevent, or mitigate (where prevention is not possible) the risks so that the impacts are negligible.

(2) The objective of the due diligence provided for pursuant to subsection (1) is to ensure that the target set pursuant to sub-paragraph (e) of section 1(3) is met.

(3) The due diligence must be undertaken by specified persons in relation to—

- (a) risks and impacts wherever they arise, and
- (b) the entire supply chain and investment chain of the person specified.

(4) In order to address, in particular, ecosystem conversion and degradation and deforestation and forest degradation (“deforestation and conversion”) the draft Bill must seek to ensure that all goods placed on the UK market are—

- (a) sustainable;
- (b) traceable back to source through fully transparent supply chains; and
- (c) do not cause adverse environmental and human rights impacts including deforestation and conversion.

(5) The due diligence required to be carried out in accordance with subsection (1) by providers of financial services must include (but not be limited to) the risk of deforestation and conversion which may arise from or be enabled by the provision of the financial services.

(6) The provisions of the draft Bill relating to due diligence must require compliance with international standards and obligations relating to human rights, including the rights of indigenous peoples and local communities.

(7) The draft Bill must—

- (a) establish or designate a body to oversee implementation of and compliance with the provisions of the Bill;
- (b) provide proportionate, effective and deterrent sanctions for entities failing to comply fully and promptly with their duties under the Bill;
- (c) provide for an independent, transparent and public complaints mechanism;

(d) establish a system which ensures effective and appropriate redress for any person affected by environmental impacts and human rights violations;

(e) require persons to report publicly on—

- (i) their plans for due diligence,
- (ii) the implementation of their plans, and
- (iii) the action taken to comply with their plans including the effectiveness of the action;

(f) require the regulatory body or other appropriate institution to undertake periodic and public audits of the effectiveness of the due diligence requirements, focusing on specified persons, sectors or supply chains; and

(g) require the Secretary of State to include in the annual report on environmental improvement plans an assessment of the application of the duties imposed in accordance with subsection (1), and to review the effectiveness of those duties after 3 years (including by commissioning an independent assessment).”—
(Daniel Zeichner.)

This new clause would require the Secretary of State to publish a draft Bill on mandatory environmental and human rights due diligence within six months of the Act passing.

Brought up, and read the First time.

Daniel Zeichner: I beg to move, That the clause be read a Second time.

To some extent, this is part 2 of a discussion that we had a little earlier. The new clause was tabled by my hon. Friends the Members for Bristol East (Kerry McCarthy) and for Leeds North West (Alex Sobel), former Committee members who have now gone on to other, greater things—perhaps not greater, but different. I am delighted to move it on their behalf. Opposition Members give it our full support.

My hon. Friends were very far-sighted, in the sense that they tabled the new clause before the Government came up with their own proposals. However, the new clause goes further, which is why we believe it is worth pursuing. I will go back to why this matters. Greener UK tells us that about 28% of the UK’s overseas land footprint—nearly 6 million hectares—is in countries at high or very high risk of deforestation and which often have weak governance and poor labour standards. At the same time, about 1.6 billion people depend directly on forests to secure their livelihoods. The food and everyday products that we buy could be destroying habitats for endangered wildlife and impacting livelihoods overseas. This is a big issue, which I think we all agree on, on the basis not only of the discussion this morning but of those facts.

The new clause would create a duty on the Government to publish draft due diligence legislation within six months of this Bill receiving Royal Assent, consistent with our earlier discussion, covering all environmental and human rights risks and addressing the impacts associated with the activities of specified bodies, including within business, finance and public authorities. It is the human rights risks and finance issues that we particularly add to the earlier discussion. The new clause would require any goods placed on the UK market to have fully traceable and transparent supply chains and to not cause adverse environmental and human rights impacts, including deforestation, forest degradation and ecosystem conversion and degradation.

Since the new clause was first tabled, as the Minister mentioned earlier and as my hon. Friends have also referenced, there has been a consultation on whether the UK Government should introduce a new law designed

[Daniel Zeichner]

to prevent forests and other important natural areas from being converted illegally to agricultural land. As the Minister reported, there is strong support for action, with 99% of respondents agreeing that there should be legislation to make forest risk commodities more sustainable. The Government were good to their word and have introduced new schedule 1 and the associated clauses, which we discussed and agreed to earlier. However, we think this new clause would go further. Its scope is wider, which means it would have a greater impact and would do more to tackle what we sadly see as our complicity in deforestation.

The evidence base is there. The Global Resource Initiative taskforce recommended back in March that:

“The government urgently introduces a mandatory due diligence obligation on companies that place commodities and derived products that contribute to deforestation”—

whether that is legal or just illegal under local laws, which is an important distinction—

“on the UK market and to take action to ensure similar principles are applied to the finance industry.”

The financial industry can be supportive in those markets. That, again, goes further than new schedule 1.

We think that a mandatory due diligence framework would formalise and obligate responsible practices throughout the UK market-related supply chains and could ensure comprehensive accountability and help prevent deforestation and other global environmental damage. The Government are right to set their sights high. We had discussions earlier about how ambitious—or not—the legislation is. We think we should be world leaders; the problem is that we are not entirely convinced that this does enough.

Greener UK says of what we have already agreed in the Bill:

“This does not accord with the urgency needed to tackle deforestation and falls short of the government’s ambition for a world leading approach.”

That is the view of the major environmental organisations. They also think—and we reflect this point—that there should be more dialogue, both with themselves and others who understand how the processes emerge. They are also concerned that, because this was a late addition to the Bill that came in through a Government amendment, it would have been helpful to have produced more detailed explanatory notes as to how it should work. They have a range of detailed questions, which I will not trouble the Committee with this morning. However, it suggests to me that there is more work to be done and that our new clause would help with much of that.

We hope the Government will go further in future, but it is striking that, Greener UK draws a comparison between the due diligence system and the approach taken to the EU timber regulation, which we have brought across through secondary legislation. It thinks that our approach is weaker by comparison.

That feeds into my overall sense of what is happening with the Bill: sadly, the rhetoric is good but the delivery and actuality is weaker. We wish to make the Bill stronger. Again, this is an important point for us so we want to divide on it, but I want to hear why the Minister thinks we should not be strengthening in that kind of way.

Rebecca Pow: I assure the hon. Gentleman that we are already one step ahead and, in fact, voted to include the world-leading legislation in the Environment Bill this very morning. We are making more progress than any other country. I understand his sentiments but, yet again, he is being negative about the enormous step we are taking.

Our amendments will help us protect the world’s most precious forests. They will allow us to set mandatory requirements on businesses that use agricultural commodities associated with deforestation. As we have said before, there are other regulations that deal with timber; our amendments will deal with other products where trees are cut down to grow crops such as palm oil, soya, rubber, beef and the associated leather, and cocoa. The hon. Gentleman will agree that those are crucial crops to be looking at as we proceed, and that that will make a genuinely big difference. We have heard the great example of what happened in Indonesia when timber was tackled. The same thing could happen with other crops in reducing the cutting down of forests. I have seen some of those on my travels.

Our framework is designed to work with Governments around the world, who are the custodians of the world’s precious forests, by requiring businesses to ensure that commodities they use have been produced on land that is legally occupied and used. I have pointed out previously how so many countries are not even adhering to their own legislation, so that is the crux of where we are placing our intentions. Our amendments will become part of the Bill now, allowing us to act quickly on this important issue, as opposed to within six months of Royal Assent, as in the new clause.

The hon. Member for Cambridge mentioned the consultation, which had a fantastic response. It highlighted that we need to act urgently, which is why we are taking action. That is in line with the recommendation of the Global Resource Initiative to introduce due diligence legislation. That is what we are doing urgently, as was called for. We are listening to feedback and I reassure the Committee that we intend to move swiftly to take forward this legislation, laying the necessary secondary legislation shortly after COP26. We hope that our setting this path will be a big talking point at COP26, potentially encouraging others to follow.

The hon. Gentleman made a sound point on human rights. We agree that, in some circumstances, there is a relationship between commodity production and human rights. It does not necessarily follow that the best solution is to tackle those two issues at the same time. Tackling human rights abuses requires an approach that is tailored for that purpose, rather than through the narrow lens of the subset of commodities, examples of which I have just listed, chosen for their impact on forests.

The Government support the United Nations guiding principles on business and human rights—an internationally agreed framework for addressing human rights risks in all kinds of business activities. Those principles encourage businesses to adopt due diligence approaches and to address any negative impacts, where appropriate. The UK was the first state to produce a national action plan for the guiding principles, and we have already announced measures to strengthen the approach of the UK’s Modern Slavery Act 2015, as part of that plan. I am sure the hon. Gentleman is fully aware of that really important step.

The hon. Member for Cambridge touched briefly on finances. I want to clarify that the due diligence legislation is designed for a specific purpose, which is to ensure that companies in the UK are not using products that have come from illegally used or occupied land. We anticipate that information included in the reports published by the regulator will provide data, which others, including the finance sector, can use, thus helping inform investors of the extent to which the companies they invest in are involved in illegal deforestation. That is the way in to what the hon. Gentleman was addressing. I hope that is helpful. I will wind up and ask the hon. Gentleman, in the light of my assurances, to withdraw his proposed new clause.

Daniel Zeichner: Frankly, I do not think that the Government are one step ahead, given that our proposal was tabled long in advance and is far more extensive and far reaching. I heard what the Minister said, and I know she is very proud of what is being done. We just need to go further.

I gently point out that I am not the one saying that what is being done is not achieving what was hoped for. It is many environmental organisations, some of which the Minister cited earlier. I suspect she will find that the debate will continue. No one is saying the matter is easy; it is complicated and difficult, and this has to be done in some cases through international negotiation. We understand and appreciate that, but we believe it is better to be more optimistic and ambitious.

Again, I heard what the Minister said on the linkage to human rights, but the evidence is pretty clear that environmental degradation and disrespect for human rights go hand in hand. That is why we believe the new clause would give a sensible way forward. On that basis, Mr Gray, we will divide the Committee.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 9.

Division No. 50]

AYES

Anderson, Fleur	Whitehead, Dr Alan
Furniss, Gill	
Jones, Ruth	Zeichner, Daniel

NOES

Afolami, Bim	Graham, Richard
Bhatti, Saqib	Mackrory, Cherilyn
Browne, Anthony	Moore, Robbie
Crosbie, Virginia	Pow, Rebecca
Docherty, Leo	

Question accordingly negatived.

New Clause 7

WASTE RECYCLING: DUTY TO MAINTAIN AN END USE REGISTER

“(1) The Secretary of State must, within 12 months of this Act coming into force, by regulations make provision for a register of the end use of all recycled waste created, collected or disposed of in England.

- (2) These regulations must apply to—
 (a) public authorities; and

(b) private businesses.

(3) The register must be made available for public inspection.

(4) Regulations under this section are subject to the affirmative procedure.”—(*Ruth Jones.*)

Brought up, and read the First time.

11.15 am

Ruth Jones: I beg to move, That the clause be read a Second time.

As we approach the end of Committee stage of this important Bill, I rise to speak to new clause 7, which appears in my name and those of my hon. Friends here in the Committee Room, but also, more importantly, those of colleagues from right across the House. This is a cross-party new clause and an important addition to the Bill; I hope Ministers will recognise that it will simply enhance the scope and reach of the Bill and take it closer to being fit for purpose.

The new clause calls on the Secretary of State for action and leadership, introducing a requirement for them to maintain,

“a register of the end use of all recycled waste created, collected or disposed of in England.”

As things stand, only voluntary policies exist for monitoring the end use of recycled material, and that approach fails to provide sufficient data to understand recycling rates and end markets.

Like many Opposition colleagues, I commend the Environment, Food and Rural Affairs Committee on its recent inquiry into food and drink packaging. It was a thorough and comprehensive review and I hope it will influence what we do and how we do it. As part of that review, the EFRA Committee highlighted the lack of data, stating:

“In order to make evidence-based policies and assess their impact, the Government needs access to reliable data. It is shocking that it does not know how much plastic packaging is placed on market in the UK, nor how much is really recycled.”

A new end use register for recycled waste would improve existing data. That is important, because it would mean that the Government—whichever Government, of whichever party—were able to deliver evidence-based policies and to better understand the end use of recycled material. The information gathered from and by the register that this new clause provides for could help to improve transparency, reduce waste and, in turn, increase public confidence in the recycling system.

That confidence is a key point, and I want the Minister and her colleagues to think about it. We will not get the buy-in we need from residents across England if we do not ensure that we can point to crude, hard facts. As Greener UK pointed out in a typically helpful and comprehensive briefing, that public confidence has been “damaged by growing awareness of waste exports”—

I have spoken about those previously, for instance in the Sri Lankan debacle—

“and confusion caused by inconsistent recycling schemes across England.”

In other words, the new clause would help any Minister with responsibility for recycling to get the job done, and it would help to ensure that our country takes all the steps necessary to tackle the climate emergency and preserve our planet.

Rebecca Pow: I thank the hon. Lady for the new clause and join her in thanking the EFRA Committee; the Committee does a lot of really helpful inquiries, and the waste and packaging one helps to add to the weight of knowledge and information. As hon. Members will know, I was on that Committee for a long time, and one does feel that the recommendations that come out of those inquiries are often useful and can help in that whole mix of listening, consulting and reporting.

The Government are absolutely committed to monitoring waste throughout its journey by improving the data captured on the generation, treatment and end use of waste. As I have said numerous times, I am keen to see improved transparency in where waste is ending up and to make that information more accessible to and usable for businesses, regulators and Government as well as the public. As the hon. Member said, people do want information and to understand, and that is why our labelling requirements—another measure introduced through the Bill—will be so helpful.

Waste tracking is reliant on largely paper-based record keeping, making it difficult to track waste effectively and providing organised criminals with the opportunity to hide evidence of the systematic mishandling of waste. That is why clauses 55 and 56 provide the regulation-making powers needed to introduce mandatory electronic waste tracking across the UK. The powers, which I know the green NGOs will welcome, will enable us to monitor waste through its entire journey from production to end use. The hon. Member was slightly critical about some of the NGOs' comments, but actually those measures met with a great deal of positivity. The clauses will enable us to track all controlled waste and waste from mines and quarries, and that will include information on waste that is being recycled as well as on products and materials produced from waste.

I am pleased to confirm that we will consult on the design of a waste tracking system next year and that the consultation will address both access to and use of waste tracking data as suggested by the new clause. I therefore do not consider it necessary to introduce a separate clause placing a duty on the Government to launch a specific register for the end use of recycled waste, as that would duplicate effort for both public authorities and businesses.

The new clause would place a further duty on the Secretary of State to introduce the measures in England only, but clauses 55 and 56 give us the necessary powers to establish a system that covers the whole of the UK. We are working closely with the devolved Administrations—that includes the Scottish Government—to develop that. While I support the intention behind the new clause, I consider it unnecessary and ask the hon. Member kindly not to press it.

Ruth Jones: I am glad that the Minister agrees with the comments of the EFRA Committee about the lack of hard data. That is why we need a register, and that is

why we tabled the new clause. I am also glad that she acknowledged the importance of ensuring we bring the public with us. Public confidence is so important; otherwise, they will not buy into any new recycling schemes.

The Minister mentioned mandatory electronic waste tracking, which is to be welcomed. However, the new clause is not about having an either/or system; it would enhance the system. The register would be a useful addition to that electronic waste tracking system.

Rebecca Pow: Is the hon. Member aware—I touched on it in my speech—that local authorities already collect and report data on their waste and many publish information about recycling performance? Information reported to local authorities is published, including on the destination of recyclable material where available. Does she agree that one does not want to put extra burdens on local authorities when they are already dealing with a lot of what she is arguing for?

Ruth Jones: I thank the Minister for her comments. The problem is that we have a voluntary code with some taking part and others not. That is the issue. No one wants duplication of anything, but we do want to reinforce and enhance the current system so that we have a coherent and comprehensive system across England and—she mentioned the devolved nations—for all areas.

The Minister mentioned the public consultation, and I take that on board. My only worry is that such consultations have been known to be a cause for people to drag their feet. We urge her to ensure that the consultation is speedy, with suitable results at the end of it. I will not press the new clause, so I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: I suspect that no one wishes to move new clause 8, unless I hear to the contrary.

Rebecca Pow: On a point of order, Mr Gray. New clause 8 is the weeds one, tabled by my hon. Friend the Member for Chatham and Aylesford (Tracey Crouch). I know she has a great interest in these things, and we acknowledge that. As a gardener, I am a great weeds person—a weed is just a plant in the wrong place—and I thank her for her continued work on pollinators.

The Chair: The Committee has already sent the hon. Member for Chatham and Aylesford our warmest and best wishes in the current circumstances, and we can add the Minister's words to that.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.