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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ENERGY BILL [*LORDS*]

Fifteenth Sitting

Thursday 22 June 2023

(Afternoon)

CONTENTS

New clauses considered.
Adjourned till Tuesday 27 June at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.

PBC (Bill 295) 2022 - 2023

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

not later than

Monday 26 June 2023

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The Committee consisted of the following Members:

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

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

Sarah Thatcher, Chris Watson, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 22 June 2023

(Afternoon)

[DR RUPA HUQ *in the Chair*]

Energy Bill [*Lords*]

New Clause 53

ELECTRICITY SUPPORT PAYMENTS FOR ENERGY-INTENSIVE INDUSTRIES

"(1) The Secretary of State may make regulations requiring payments ('electricity support payments') to be made to a person who carries out an energy-intensive activity, for the purpose of alleviating the impact on the person of electricity costs.

(2) In subsection (1), 'energy-intensive activity' means an activity (or description of activity) that is designated as such in the regulations.

(3) The regulations may make provision—

(a) about the circumstances in which a person is eligible for electricity support payments;

(b) about how eligibility is to be considered and determined;

(c) setting out a process for applying for electricity support payments, including provision about the form and content of applications;

(d) about the calculation of electricity support payments;

(e) requiring a person to provide information that is relevant to their eligibility for electricity support payments or to the calculation of any such payments;

(f) requiring a person who supplies electricity to another person to provide information that is relevant to the matters mentioned in paragraph (e) (whether to the person to whom the information relates or to another person specified in the regulations);

(g) about the sharing of information provided by virtue of paragraph (e) or (f);

(h) requiring past electricity support payments to be repaid (with or without interest) in circumstances specified in the regulations;

(i) about how amounts repaid by virtue of paragraph (h) are to be applied (including provision for amounts to be held in reserve or paid into the Consolidated Fund);

(j) for the enforcement of obligations imposed by or under the regulations (including provision about interest on late payments and imposing financial penalties);

(k) about the resolution of disputes, including provision about arbitration or appeals (which may in particular include provision for the person conducting an arbitration or determining an appeal to order the payment of costs or expenses or compensation).

(4) Where by virtue of subsection (3)(j) the regulations provide for the imposition of a financial penalty, they must also provide for a right of appeal against the imposition of the penalty.

(5) The regulations may—

(a) appoint a person, with the person's consent, to carry out functions in connection with electricity support payments (a 'support payment administrator');

(b) confer functions on the support payment administrator;

(c) require the support payment administrator to provide information or assistance to the Secretary of State, or to another person specified in the regulations, in relation to any functions so conferred.

(6) Where—

(a) the regulations impose a requirement on a regulated person (as defined by section 25(8) of the Electricity Act 1989),

(b) the requirement is enforceable by a support payment administrator, and

(c) the support payment administrator is the GEMA,

the regulations may provide for the requirement to be enforceable by the GEMA as if it were a relevant requirement imposed on the person for the purposes of section 25 of that Act.

(7) The regulations may provide for any sum—

(a) that a person is required under the regulations to pay to the Secretary of State or to a support payment administrator, and

(b) that has not been paid by the date required,

to be recoverable from the person as a civil debt due to the Secretary of State or to the support payment administrator (as the case may be).

(8) The regulations may make provision about the terms of a support payment administrator's appointment, including provision—

(a) for the support payment administrator to be remunerated, or compensated for costs that they incur;

(b) about how an appointment may be terminated by the Secretary of State or by the support payment administrator, and when termination takes effect.

(9) If functions of a support payment administrator ('the outgoing administrator') are to be taken on by another support payment administrator or by the Secretary of State ('the successor'), the regulations may—

(a) require the outgoing administrator to take steps specified in the regulations to enable or facilitate the carrying out of those functions by the successor;

(b) provide for the transfer of any property, rights or liabilities from the outgoing administrator to the successor;

(c) provide for anything done by or in relation to the outgoing administrator in connection with any property, rights or liabilities to be treated as done, or to be continued, by or in relation to the successor.

'Property' in this subsection includes interests of any description.

(10) Regulations under this section may confer a discretion on the Secretary of State or on a support payment administrator.

(11) Regulations under this section are subject to the affirmative procedure."—*(Andrew Bowie.)*

This new clause, intended to be inserted in Part 6, empowers the Secretary of State to make regulations setting up a scheme for helping energy-intensive industries with high electricity costs. It allows for a person to be appointed to administer the scheme.

Brought up, and read the First time.

2 pm

The Parliamentary Under-Secretary of State for Energy Security and Net Zero (Andrew Bowie): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government new clause 54—*Levy to fund electricity support payments.*

Andrew Bowie: Government new clauses 53 and 54 relate to support for energy-intensive industries. The Government recognise that in recent years EIIs in Great Britain have faced the steepest industrial electricity prices in Europe, even with existing Government support

schemes applied. That has been due primarily to the long-term disparity in network and policy costs. It has a particular impact on the competitiveness of UK industry and, in particular, EIIs such as steel and chemicals manufacturing. Internationally higher electricity prices for these sectors put the UK at risk of significant job losses and disinvestment—a position that is growing only more acute against the backdrop of volatility in wholesale energy markets. Consequently, the UK is also missing out on inward investment, as the most energy-intensive industries in comparable neighbouring countries are exempted from similar costs.

In the absence of UK domestic production, we would need to place much greater reliance on import markets in regions with lower emissions standards and less stringent climate policies. That would constitute carbon leakage, which is a risk to both our economic security and our aim to achieve net zero by 2050. In response to this challenge, the Government announced in February the British industry supercharger—a decisive set of measures to make Britain's strategic EIIs more competitive and to tackle the risk of carbon leakage. That will be achieved by addressing three areas of the domestic energy system, which together contribute to higher electricity costs for EIIs here than is the case in comparable countries.

The new clauses will provide us with the powers to implement one of the three measures in the British industry supercharger package by providing a means to offer relief on network charging costs. New clause 53 provides the Government with the powers to implement the network charging compensation scheme to compensate EIIs for a portion of their network charging costs. It also provides the Government with the powers, if required, to appoint an administrator for said scheme.

New clause 54 provides the Government with the powers to establish the mechanism to fund the NCC scheme through a levy on all licensed electricity suppliers in the form of the EII support levy. It also provides the powers to appoint an administrator for the proposed levy. This measure, in conjunction with the others listed in the British industry supercharger package, will help to reduce electricity costs for EIIs that struggle to remain competitive because of the high cost of electricity.

Failure to tackle high electricity prices would risk the UK losing these critical sectors for good, resulting in missed investment, job losses and a need for us to place much greater reliance on import markets with lower emissions standards. I therefore commend new clauses 53 and 54 to the Committee.

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship once again, Dr Huq. The Government tabled the new clauses at a reasonably late stage. We knew they were coming, because the Minister was kind enough to discuss them beforehand, but, having arrived, they do not quite say what I thought they might about the matter in hand, and it would be useful to have a little clarification from him—in addition to what he said a moment ago—about what exactly the new clauses consist of.

The major element of the so-called supercharger package as it relates to the new clauses is, as I understand it, the proposition that energy-intensive industries should be subject no longer to green and similar levies but should have a complete exemption from those levies. For quite a long time they have had an 85% exemption from levies, and I think part of the proposal in the supercharger arrangements is to reduce that to zero.

The Minister will know from our previous discussions that there is an extant list of what are and are not energy-intensive industries. There is some discussion about whether that list might be refined to more accurately define what energy-intensive industries are. Indeed, I recall that the Minister and I had exchanges in a Westminster Hall debate about what would be defined as an energy-intensive industry for these purposes. There are anomalies in the definition of "energy-intensive industries"—for example, certain things relating to plants or plant culture are included as energy-intensive industries because of the energy they use, but agriculture in general is not—so there are questions about what will be defined as such and whether there is any intention to clarify or change the definition.

For industries that are categorised as energy intensive, the changes that can be made to levy obligations through the operation of the new clauses could be fairly considerable. I imagine the Minister may well be inundated with letters and various other communications from people in industries that they think should be classified as energy intensive but are not presently included in the definition. They will wonder whether the Department is going to have any proactive discussion about that, or whether it is content to leave the list as it is for the purpose of the new clauses. I do not know, and it would be helpful to have some sort of guidance as to whether that will be the case.

The position hitherto has been that energy-intensive industries have had an 85% exemption from the levy, and the difference in liability has been recovered from other industries in general—that is, smeared across those other industries' liabilities for levies, so that their levy requirement goes up a little and energy-intensive levies go down. Given that the levies across industry are broadly defined, that amounts to a pretty small addition to levy requirements for most industries, but a fairly substantial reduction in the levy requirement for energy-intensive industries. Going from the 85% exemption down to 0% would, at least in principle, require a further smearing of the difference across industry as a whole so that the difference would be marginally greater than before, but, again, it would perhaps not be an enormous imposition on industries that are energy intensive. I think the Minister can see, however, that people who are on the wrong side of the cliff edge may see it slightly differently.

The new clauses seem to provide for a slightly different mechanism. New clause 54 sets up a levy to fund electricity support payments. We are familiar with how that might be set up, given our discussions about the hydrogen levy earlier in Committee, and it is a similar sort of arrangement. The difference is that nothing in the new clause says how that levy might be raised. As I say, we currently have methods that do not use this mechanism but effectively raise money by socialising the cost across the rest of industry. However, the levy arrangements set out in the new clause suggest that raising the difference could be a wider activity. For example, just as we have found with the hydrogen levy, the new levy could be raised from suppliers. The new

[Dr Alan Whitehead]

clause suggests that suppliers are supposed to make information available to the regulator, so there is at least a suggestion that that is how this levy will be established.

Of course, we cannot say for certain, because the provisions for the levy to be introduced are currently pretty broad; I assume that the relevant matters will be undertaken by regulation. I am pleased to see at least that the relevant regulations will be subject to the affirmative procedure, so we will hopefully be able to discuss them further, in a room similar to this one, at some stage in the future.

At this stage, it would be good to have further clarification on Government thinking as to how the levy will proceed, what it is intended to encompass, how it will be raised and, indeed, whether there will be a sort of counterparty arrangement similar to that for the Low Carbon Contracts Company—although that may not be necessary if the proposition, particularly in terms of exemption from other levies in general, is that costs will be socialised across industry in the same way that previous levy exemptions were. It might, though, be necessary if other procedures are supposed to be put in place to assist energy-intensive industries.

I would like to hear from the Minister about those matters, but I do not have any particular disputes on the question of whether we set up general measures to provide assistance to energy-intensive industries, other than to ask how they are going to work in practice.

Andrew Bowie: I thank the hon. Gentleman for his questions. In my opening speech, I set out in some detail exactly how we expect the levy to function. For clarity's sake, new clause 54 provides the Government with the powers to establish the mechanism to fund the NCC scheme. It will be a levy on all electricity suppliers in the form of the EII support levy. The new clause also provides the powers to appoint an administrator of the levy.

We believe this is a critical step to ensure that energy costs for key UK industries are in line with those in other major economies. The exact workings of the mechanism and how it will work in practice are still being worked through. Obviously, we will update the House when information comes forward and, as the hon. Gentleman said, there will be opportunities to debate these matters further in the future.

As for expanding the number of companies and sectors that are eligible for support through the scheme, a review of the analysis will be carried out in 2026 to ensure that it is supported by stable post-covid and post-EU data, to give us an up-to-date view of the market and to allow us to target those sectors that are most at risk from carbon leakage. The list of eligible sectors will be refreshed accordingly at the point at which we conduct the review of the analysis in 2026.

What do the new clauses do? I already covered that in my speech. The reason why we are making these changes now is, as the hon. Gentleman said, because the question of how we support these industries moving forward is concentrating the minds of many in this country, given the high electricity prices and the cost of decarbonising those industries. We believe that the supported sector will be approximately 300 firms that are the most at risk of carbon leakage due to the high industrial electricity prices.

2.15 pm

Dr Whitehead: I am listening carefully to the Minister, but I am still not clear about the role of the levy. Are the Government suggesting—I think the Minister is—that the levy arrangement would have a levy-raising body that could raise fresh levies for direct support to energy-intensive industry from suppliers? Or is that body restricted to the forgiveness of existing levies, which currently, or at least residually, are a 15% liability for energy-intensive industries? If it is the latter, is the Minister not perhaps setting out a few hostages to fortune by suggesting that there may be other levies that this levy board, or whatever it is, could raise separately from suppliers? If that is the case—I do not think it is—what is the role of the levy in doing anything separate from what has already happened in terms of the socialisation of levy forgiveness across the rest of the industry? Why is it necessary to set up a levy-raising body separately from that mechanism?

Andrew Bowie: At the risk of repeating myself for a third time, I set out in my speech exactly what we expect the levy to do, precisely why we are introducing the powers through the Bill and exactly why it is important that we support these industries, because of the high electricity cost, fluctuating market prices and cost to decarbonise.

On the hon. Gentleman's specific question, I cannot quite remember which way round he presented it, but I reassure him that there will be no powers for this levy-raising body to introduce further levies on separate sectors, or whatever it was he was suggesting. It was the former argument—it is specifically for the industries and sectors that we have identified in this Bill, and that is it. That is what the levy is designed to do.

Dr Whitehead: Forgiveness of the existing levy.

Andrew Bowie: Yes.

Question put and agreed to.

New clause 53 accordingly read a Second time, and added to the Bill.

New Clause 54

LEVY TO FUND ELECTRICITY SUPPORT PAYMENTS

"(1) The Secretary of State may make regulations requiring the payment of a levy by electricity suppliers for the purpose of funding—

(a) the making of electricity support payments by virtue of section 1 (including expected future payments);

(b) any other costs arising by virtue of section 1 or this section (including expected future costs).

(2) The regulations may make provision—

(a) about the calculation of the levy;

(b) requiring electricity suppliers to provide financial collateral in respect of their obligations to pay the levy, and about the form and terms of such collateral;

(c) for the issuing of notices to require the payment of the levy or the provision of collateral;

(d) for the provision of copies of such notices to persons specified in the regulations or for the publication of such notices;

(e) about how amounts of levy are to be applied once paid (including provision for amounts to be held in reserve or paid into the Consolidated Fund);

(f) for the recovery of unpaid amounts of levy in the event of the insolvency or default of an electricity supplier (including provision requiring amounts to be borne by other electricity suppliers in accordance with the regulations);

(g) requiring electricity suppliers or the GEMA to provide information that is needed to determine—

(i) what an electricity supplier's obligations are in relation to the levy, or

(ii) whether an electricity supplier has complied with those obligations;

(h) about the sharing of information provided by virtue of paragraph (g);

(i) for the enforcement of obligations imposed by or under the regulations (including provision about interest on late payments and imposing financial penalties);

(j) about the resolution of disputes, including provision about arbitration or appeals (which may in particular include provision for the person conducting an arbitration or determining an appeal to order the payment of costs or expenses or compensation).

(3) Where by virtue of subsection (2)(i) the regulations provide for the imposition of a financial penalty, they must also provide for a right of appeal against the imposition of the penalty.

(4) The regulations may—

(a) appoint a person, with the person's consent, to carry out functions in connection with the levy (a 'levy administrator');

(b) confer functions on the levy administrator;

(c) require the levy administrator to provide information or assistance to the Secretary of State, or to another person specified in the regulations, in relation to any functions so conferred.

(5) Where—

(a) the regulations impose a requirement on a regulated person (as defined by section 25(8) of the Electricity Act 1989),

(b) the requirement is enforceable by a levy administrator, and

(c) the levy administrator is the GEMA,

the regulations may provide for the requirement to be enforceable by the GEMA as if it were a relevant requirement imposed on the person for the purposes of section 25 of that Act.

(6) The regulations may provide for any sum—

(a) that a person is required under the regulations to pay to the Secretary of State or to a levy administrator, and

(b) that has not been paid by the date required,

to be recoverable from the person as a civil debt due to the Secretary of State or to the levy administrator (as the case may be).

(7) The regulations may make provision about the terms of a levy administrator's appointment, including provision—

(a) for the levy administrator to be remunerated, or compensated for costs that they incur;

(b) about how an appointment may be terminated by the Secretary of State or by the levy administrator, and when termination takes effect.

(8) If functions of a levy administrator ("the outgoing administrator") are to be taken on by another levy administrator or by the Secretary of State ("the successor"), the regulations may—

(a) require the outgoing administrator to take steps specified in the regulations to enable or facilitate the carrying out of those functions by the successor;

(b) provide for the transfer of any property, rights or liabilities from the outgoing administrator to the successor;

(c) provide for anything done by or in relation to the outgoing administrator in connection with any property, rights or liabilities to be treated as done, or to be continued, by or in relation to the successor.

'Property' in this subsection includes interests of any description.

(9) Regulations under this section may confer a discretion on the Secretary of State or on a levy administrator.

(10) Regulations under this section are subject to the affirmative procedure.

(11) In this section, 'electricity supplier' means the holder of a licence under section 6(1)(d) of the Electricity Act 1989."—*(Andrew Bowie.)*

This new clause, intended to be inserted in Part 6, empowers the Secretary of State to make regulations imposing a levy on electricity suppliers, to fund the scheme which may be set up by virtue of NC53. It allows for a person to be appointed to administer the levy.

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

New Clause 55

CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE: IMPLEMENTATION POWER

"(1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate—

(a) to implement the CSC, or

(b) otherwise for the purposes of dealing with any other matter arising out of, or related to, the CSC.

(2) The provision that may be made by virtue of subsection (1) includes provision that is authorised by the CSC to be made in relation to a particular matter.

(3) Regulations under this section may amend—

(a) Schedule 20,

(b) the Nuclear Installations Act 1965, or

(c) any other enactment having effect in relation to a matter to which the CSC relates.

(4) In this section, 'the CSC' means the Convention on Supplementary Compensation for Nuclear Damage (as amended or supplemented from time to time).

(5) Regulations under this section are subject to the affirmative procedure."—*(Andrew Bowie.)*

This new clause confers a power to make regulations in connection with the Convention on Supplementary Compensation for Nuclear Damage, including provision to implement the Convention. The regulations may in particular amend the Nuclear Installations Act 1965.

Brought up, and read the First time.

Andrew Bowie: I beg to move, That the clause be read a Second time.

The new clause will provide the Secretary of State with the power to make changes to the UK's domestic implementing legislation regarding the convention on supplementary compensation for nuclear damage—the CSC—if required in future. That power would be implemented through regulations made through the affirmative procedure.

The UK will be the first country in the world to accede to both the Paris convention on third party liability and the CSC. That is inevitably a complex process, and we envisage four different circumstances in which amendments might be needed to our domestic legislation in the future. First, it is crucial that we

[Andrew Bowie]

deliver CSC accession. Certain implementation matters are still to be worked through with the convention countries and industry, and further changes may be needed to the Nuclear Installations Act 1965 after the Bill receives Royal Assent. Secondly, we must enable the UK to accept future amendments to the CSC.

The third circumstance is the exercise of an option under the CSC where there are optional provisions—for example, paragraph 1(a)(i) of article III, which enables a different national compensation amount to be specified to the depository. We would want the ability to make any necessary changes to the Nuclear Installations Act and any other relevant legislation to implement that option.

The final circumstance is dealing with any other matters arising out of, or related to, the CSC. As the first Paris convention country to seek CSC accession, bespoke approaches to implementation may be required. There is precedent for that approach, as the powers are in line with existing powers in section 76 of the Energy Act 2004, which enabled changes to be made for the Paris and Brussels conventions. In short, it would be prudent to ensure that mechanisms are in place to enable effective delivery in the future.

Dr Whitehead: I do not have anything to add to what the Minister said. We have discussed similar issues earlier in our debates and I do not think that anything I would say would add to that.

Question put and agreed to.

New clause 55 accordingly read a Second time, and added to the Bill.

New Clause 59

Key definitions for Part

"(1) In this Part—

'designated person' means a person in relation to whom a designation under section (Designation)(1) has effect (and any reference to designation, in relation to a person, is to be construed accordingly);

'designated project' , in relation to a person, means a hydrogen pipeline project in relation to which the person is designated;

'gas transporter licence' means a licence under section 7 of the Gas Act 1986;

'hydrogen' means any gas that consists wholly or mainly of hydrogen;

'hydrogen pipeline project' means a project involving the construction, alteration or operation of a pipeline for the purpose of the conveyance of hydrogen.

(2) References in this Part to the extension or restriction of a licence are to the giving of a direction in respect of the licence under (respectively) section 7(4) or (4A) of the Gas Act 1986."—*(Andrew Bowie.)*

This new clause, together with NC60, NC61, NC62, NC63, NC64, NC65, NC66, NC67, NC68, NC70 and NC71, is intended to form a new Part to be inserted after Part 2. The new clause defines key terms that are used in the intended new Part, which will give the Secretary of State powers to provide for a regulated asset base model for certain licences for the conveyance of hydrogen through pipes.

Brought up, and read the First time.

Andrew Bowie: I beg to move, That the clause be read a Second time.

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

Government new clauses 60 to 71.

Government amendment 169.

Andrew Bowie: I rise to speak to the Government new clauses to introduce provisions for the hydrogen transport business model. The development of hydrogen transport infrastructure, most notably pipelines, represents a critical step in the growth of the hydrogen economy. It is expected to be vital in helping the Government to achieve the ambition of up to 10 GW hydrogen production capacity by 2030. The infrastructure is needed not only to connect producers and users, providing a market for hydrogen production, but to support the resilience and security of the supply of hydrogen, thereby encouraging a move away from fossil fuels.

However, due to market barriers associated with that infrastructure, namely high up-front capital costs and uncertain financial returns, a business model is needed to encourage investment in hydrogen transport infrastructure. The new clauses are intended to enable the implementation, via gas transporter licence conditions, of a regulated asset base, or RAB, in respect of hydrogen pipeline projects as part of the business model. A RAB is aimed at giving investors long-term certainty to establish and scale up the development of hydrogen transport infrastructure, and can be used alongside an external subsidy mechanism to give further confidence to investors. Provisions for that external subsidy mechanism in the form of hydrogen transport revenue support contracts have already been discussed in Committee.

Government new clause 59 defines key terms to be used in this new part of the Bill, which is intended to be inserted after part 2. Government new clause 60 enables the Secretary of State to designate, by notice, a consenting person in relation to a hydrogen pipeline project. Designation triggers the ability of the Secretary of State to use other powers in this proposed new part to implement a RAB in respect of the designated person and project, such as powers to grant, extend and/or modify a gas transporter licence. Subsection 2 sets out the conditions that must be met before the Secretary of State can designate a person in relation to a hydrogen pipeline project. They include whether the Secretary of State is of the opinion that it is likely to be appropriate for the person and project to be subject to relevant licence conditions implementing a RAB, and that the project is likely to result in value for money.

Government new clause 61 sets out various procedural requirements that apply in respect of the exercise of the Secretary of State's power to designate a consenting person in relation to a hydrogen pipeline project. The new clause requires the Secretary of State to publish a statement setting out both the procedure that they expect to follow in determining whether to exercise the power to designate, and how they expect to determine whether the conditions to designate are met. The provisions in the new clause are intended to help to ensure transparency in the designation process.

Government new clause 62 enables the Secretary of State to revoke, by notice, a person's designation in relation to a hydrogen pipeline project in certain specified

circumstances—for example, if conditions of the designation are not met, or if the person consents to the designation being revoked. Similar procedural requirements apply in relation to a revocation as they do in relation to a designation. The new clause is intended to help to ensure that the Secretary of State has the ability to revoke a designation in relation to a hydrogen pipeline project where it is no longer merited or required.

Government new clause 63 enables the Secretary of State, in specified circumstances, to exercise certain powers conferred on the Gas and Electricity Markets Authority—GEMA—by section 7 of the Gas Act 1986 to grant, extend or restrict gas transporter licences. It is intended, alongside other clauses, to provide the Secretary of State with powers to implement a RAB, via gas transporter licence conditions, in respect of hydrogen pipeline projects as part of the business model.

Government new clause 64 enables the Secretary of State to make regulations about the making, consideration and determination of relevant applications. It enables the Secretary of State to set out a specific process, separate from the existing Gas Act 1986 processes, for applications to be made for the grant, extension or restriction of gas transporter licences in relation to the implementation of a RAB in respect of hydrogen pipeline projects. Before making regulations under the new clause, the Secretary of State must consult with the Gas and Electricity Markets Authority.

Government new clause 65 enables the Secretary of State to modify the conditions or terms of a designated person's gas transporter licence, as well as standard conditions and certain documents or agreements, such as industry codes. It is intended to provide the Secretary of State with powers to implement, via gas transporter licence conditions, a RAB, in respect of hydrogen pipeline projects as part of the business model.

When making any such modifications to the conditions or terms of a designated person's gas transporter licence, the Secretary of State must have regard to various matters, including certain Government duties under the Climate Change Act 2008 and the interests of existing and future consumers of gas conveyed through pipes. The new clause also gives the Secretary of State the power to modify the conditions or terms of a gas transporter licence held by a person who is or was a designated person. That is in connection with the revocation of the person's designation in relation to a hydrogen pipeline project.

Government new clause 66 sets out the scope of the modifications that the Secretary of State may make under new clause 65, such as the "allowed revenue" that the designated person may receive and how it is to be calculated.

Government new clause 67 sets out procedural requirements relating to modifications under new clause 65, including a requirement for the Secretary of State, before making a modification, to consult the holder of any licence being modified, the Gas and Electricity Markets Authority and any other persons that the Secretary of State considers appropriate.

Government new clause 68 ensures that requirements for the provision and publication of information and advice may be set out in regulations. The use of regulations should give the parties involved sufficient certainty on treatment of the information, while enabling the regime to be updated as refinements and improvements are needed. The information flows established relate to the Secretary of State, Ofgem, the designated person, the hydrogen transport counterparty and other specified persons, where relevant, as summarised in the new clause.

Government new clause 69 ensures that the Secretary of State may add particular conditions to licences that require the licence holder to share information with a third party, known as "the candidate". The candidate can be an applicant, or potential applicant, for a gas transporter licence, or a person considering whether to apply for financial support for activities relating to the production, transportation, storage or use of hydrogen.

Turning to Government new clause 70, as I have already covered, the new RAB provisions are aimed at ensuring that initial RAB support can be facilitated in parallel with wider Government support. These measures, therefore, enable the Secretary of State to directly grant, extend, and/or modify gas transport licences to incorporate conditions so that that can happen. Ofgem will, however, remain the regulator of gas conveyed through pipes, so the decisions that it makes in respect of those conditions remain of paramount importance to the success of hydrogen networks.

This is a complex and technical area to operate in, and the approach is untested at scale for both Government and the regulator. As such, there is a risk that unforeseen issues may arise that compromise a project's ability to achieve value for money. New clause 70 therefore allows the Secretary of State to give directions to the Gas and Electricity Markets Authority, in very specific circumstances, to help overcome those issues.

Turning to Government new clause 71, the provisions requested in these measures are intended to be time-limited, as the Secretary of State's direct involvement in the RAB is not expected to be needed forever. Given the nascent policy landscape for hydrogen, its development is largely being driven by availability of Government support. The initial designated projects will be the first of their kind at that scale, and their strategic coherence will be tied to decisions on wider value-for-money considerations. However, beyond that initial period, when strategic Government intervention is no longer required, powers to allocate a RAB should sit with the regulator.

New clause 71 therefore facilitates the Secretary of State to be able to repeal the provisions in these measures. The new clause balances the uncertainty of this nascent industry with the need to show that Government intervention is not expected to last forever. It sets a clear timeline, with 31 December 2040 triggering a need for the Secretary of State to consider whether it is appropriate to repeal any provisions and, if satisfied that it is not, to publish an explanation. That duty repeats on a five-year cycle until no provisions are left in force.

Government amendment 169 is consequential on the new clauses associated with providing powers to the Secretary of State to designate and allocate a RAB, and sets out the extent of the new clauses—that extent being England, Wales and Scotland. The decision to designate a project for a RAB will sit with the Secretary of State but attaches to the gas transporter licensing regime set out in the Gas Act, which already applies to hydrogen and is Great Britain-wide.

2.30 pm

Dr Whitehead: Taken together, the new clauses provide a fairly comprehensive series of arrangements relating to hydrogen transportation. In particular, as the Minister has outlined, they introduce at least the concept of a RAB to finance the proceedings.

The Minister also said that the undertaking to which a RAB may be applied is potentially huge, and I am sure that he is aware of the complications and problems that can arise in putting a RAB together for something of this size. RABs have been tried for various schemes, but normally much smaller ones. One of the most recent was Thames Tideway, which was a pretty big undertaking, but there was at least an assurance about the purpose of the undertaking, what would happen at the end of it and so on.

The RAB that has been put in place for nuclear development—Sizewell C, to be precise—is an even more complicated beast, because it effectively makes customers liable well in advance of anything being delivered. Indeed, part of the purpose of the RAB is to ensure that funding is raised for the project before it starts. In the case of Sizewell C, there is a lengthy period between the project's starting and its making any money, so the RAB provides, in that long period, a reasonably secure funding stream that can ensure that the project is completed and energy produced.

In relation to nuclear, one of the arguments for the RAB is that, although the customer will pay more money in the short to medium term, they will get the benefits of cheaper electricity from the operation of the nuclear plant in the long term. I am not entirely convinced by that argument. There is also the issue of the uncertain timeframe during which the RAB applies. If the timescale of a particular nuclear plant falls behind excessively, much greater obligations may be placed on the customer, over a longer period of time, before anything arises. As we discussed in relation to the Nuclear Energy (Financing) Act 2022, a project may not ever come to final maturity, and in the meantime the customer has paid a lot of money. Indeed, exactly that happened with a nuclear power plant in the United States—I think in Cleveland, Ohio—where the power plant never materialised yet customers had paid a lot of money up front for it.

I say that because the RAB that we need to introduce through these new clauses, which I do not oppose, must be carefully circumscribed. We must ensure that the time for which people are liable up front, and the result of the process, are closely monitored. I assume that those arrangements will proceed by secondary legislation and various other means, but it is worth laying down a few methods of procedure for bringing a RAB forward under these circumstances, the way it might work and how we might ensure that it creates value for money in its operation. It would be helpful if the Minister would say one or two things about that in his response.

My other question relates to Government new clause 71. The Minister says in the clause that it enables a sunset time of December 2040 to be specified as the "relevant date". Actually, it does not attach that relevant date to the rather stark subsection (1) of the clause, which states—without further qualification or clarification—

"The Secretary of State may by regulations repeal any of the preceding provisions of this Part."

As far as I can see, that means if at any stage—not 2040—the Secretary of State feels that he or she would like to repeal any or all of the preceding provisions in this part, he or she may do so, subject to the affirmative procedure in the House. However, we know how far statutory instruments go in holding anybody to account for anything, so the Secretary of State appears to have the ability to derail the whole process if he or she feels like it, at any stage during its operation. I would think that is a potential red flag to investors in these projects. They can go ahead with their projects and arrangements and put their investment funds in, but the Secretary of State can pull the plug at any time he or she feels like doing so: that is not a terribly reassuring thing to read in a piece of legislation when people are considering investing in hydrogen transportation, in this instance. It would be better to link that power of the Secretary of State more firmly to the sunset clause in subsection (3)—it is in the clause, but not associated with the first subsection of the clause. It may be that other provisions elsewhere that I have not seen link it in, but as it stands, it is a bit of a stark, free-standing thing to say in a piece of legislation.

As we saw recently with the Energy Prices Act 2022, which included similar arrangements for the Secretary of State to do exactly what he or she thought he or she might do at any stage, industry was very upset about those clauses. Indeed, it raised representations about what would happen to its investments and various other things were those clauses to be invoked. I hope we are not looking at a repeat of that, and have rather better arrangements to ensure that in normal circumstances under these provisions, things would be able to run their course and do what we want them to do as far as hydrogen transportation is concerned.

Andrew Bowie: I thank the hon. Member for his questions. He is right to draw attention to subsection (1) of new clause 71, which states:

"The Secretary of State may by regulations repeal any of the preceding provisions of this Part."

But of course we then need to read the second subsection, which states:

"So far as any of those provisions is still in force on a relevant date, the Secretary of State must—

(a) consider whether it is appropriate to repeal that provision, and

(b) if satisfied that it is not appropriate to do so, publish a statement no later than 3 months after that date explaining why not."

Then subsection (3) states that "relevant date" in subsection (2)

"means 31 December 2040 and each five-year anniversary of that date"—

quite a way to celebrate Hogmanay. Subsection (4) then states:

"Regulations under this section are subject to the affirmative procedure."

I hope that the hon. Member accepts that although subsection (1) may seem as though it enables the Secretary of State to, in his words, "pull the plug", the other provisions give relevant security to the industry and, indeed, to any MPs who may be concerned that the Secretary of State might be willing to do so without going through a process that is clear and transparent

and that has options. The intention is to enable long-term investment in hydrogen pipelines, supporting it and providing investor confidence that investments in such projects will have a fair return. We intend to maintain clear and open communication with projects, as appropriate, recognising the benefits of certainty and predictability for the industry.

However, to be able to react to unforeseen issues relating to licence conditions and the operation of the RAB, the Secretary of State must retain the ability to modify the licence conditions of a designated person's gas transporter licence while a designation remains in place. Ofgem, as the independent regulator, retains its overarching ability to change licence conditions within the existing regime.

Dr Whitehead: I appreciate what the Minister says about subsection (2) of new clause 71. Indeed, I paid attention to it in my remarks. But I hoped that he would agree—hon. Members might like to look at this new clause again to see whether they do—that subsection (1) does not necessarily attach itself to subsection (2). Subsection (2) states:

"So far as any of those provisions is still in force on a relevant date, the Secretary of State must"

do various things, as the Minister said. It does not necessarily relate to subjection (1). It might do, it might not. Subsection (1) just baldly says:

"The Secretary of State may by regulations repeal any of the preceding provisions of this Part."

On the question of the provisions that are still in force on a relevant date, that could be after the Secretary of State has taken action to repeal those preceding provisions, so the subsections are not connected in the way the Minister seems to suggest.

Andrew Bowie: I dispute that and argue that they are connected. Yes, subsection (1) states:

"The Secretary of State may by regulations repeal any of the preceding provisions of this Part."

But directly following is subsection (2), which states:

"So far as any of those provisions is still in force on a relevant date, the Secretary of State must",

and so on—I am not going to repeat that. I think it is quite clear, in the way this has been drafted, that it relates to "repeal…of this Part" in subsection (1) of the new clause.

I can understand that it might be open to interpretation. I am sure that legislators and lawyers years from now will be able to have great fun arguing over exactly what is meant, but to my mind, the Government's mind and, I think, the mind of right hon. and hon. Members in this room, subsections (2), (3) and (4) relate exactly to what is in subsection (1).

Dr Whitehead: We just need to add the word "and" at the end of subsection (1)—a sensible suggestion—then we might be in a much better position.

Andrew Bowie: I thank the hon. Member for his suggestion. I do not think that is required, but I do thank him for the suggestion.

Question put and agreed to.

New clause 59 accordingly read a Second time, and added to the Bill.

New Clause 60

Designation

"(1) The Secretary of State may by notice given to a person designate the person in relation to a hydrogen pipeline project.

(2) The Secretary of State may designate a person in relation to a hydrogen pipeline project only if the Secretary of State is of the opinion—

(a) that it is likely to be appropriate for conditions described in section (Scope of modification powers under section (Modification of gas transporter licences by Secretary of State))(1)(a) and (b) to be included in any gas transporter licence held by the person for the purposes of the project (whether or not the person already holds such a licence), and

(b) that the project is likely to result in value for money.

(3) A person may be designated only with the person's consent.

(4) A designation may not relate to more than one hydrogen pipeline project (but a person who is designated in relation to one project may be designated separately in relation to another)."—*(Andrew Bowie.)*

This new clause gives the Secretary of State the power, with a person's consent, to designate the person in relation to a hydrogen pipeline project. Subsection (2) sets out conditions that apply to the exercise of the power to designate.

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

New Clause 61

Designation: procedure

"(1) The Secretary of State must publish a statement setting out—

(a) the procedure that the Secretary of State expects to follow in determining whether to exercise the power under section (Designation)(1), and

(b) how the Secretary of State expects to determine whether the conditions in section (Designation)(2) are met.

(2) A duty imposed by subsection (1) may be satisfied by things done before the passing of this Act (as well as by things done after that time).

(3) A designation notice must include—

(a) a description of the hydrogen pipeline project to which the designation relates,

(b) the Secretary of State's reasons for the designation,

(c) details of any conditions to which the designation is subject, and

(d) the date of the notice.

(4) The Secretary of State must give the GEMA a copy of a designation notice.

(5) The Secretary of State must publish a designation notice, but may exclude from publication any material the disclosure or publication of which the Secretary of State considers—

(a) would be likely to prejudice the commercial interests of any person, or

(b) would be contrary to the interests of national security.

(6) In this section, 'designation notice' means a notice under section (Designation)(1)."—*(Andrew Bowie.)*

This new clause requires the Secretary of State to publish a statement setting out the procedure that is expected to apply in relation to the exercise of the power under NC60. It also sets out procedural requirements that apply to a designation notice.

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

2.45 pm

New Clause 62

Revocation of designation

"(1) The Secretary of State may by notice given to a designated person revoke the person's designation in relation to a hydrogen pipeline project if—

(a) either of the conditions in section (Designation)(2) ceases to be met in relation to the project,

(b) the Secretary of State determines that a condition to which the designation is subject has not been met, or

(c) the person consents to the designation being revoked.

(2) Section (Designation: procedure)(3)(a), (b) and (d), (4) and (5) applies (with necessary modifications) in relation to the revocation of a person's designation as it applies in relation to the designation of a person.

(3) Where the Secretary of State gives a notice to a person under subsection (1), the person's designation in relation to the hydrogen pipeline project in question ceases to have effect at the end of the day on which the notice is given to the person.

(4) The revocation of a person's designation in relation to a hydrogen pipeline project does not affect anything done in relation to the licence by the Secretary of State under or by virtue of this Part while the person was designated in relation to the project."—*(Andrew Bowie.)*

This new clause makes provision about the circumstances in which a person's designation in relation to a hydrogen pipeline project may be revoked, and about the procedure for revocation.

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

New Clause 63

Grant, extension or restriction of gas transporter licence by Secretary of State

"(1) The Secretary of State may exercise the power under section 7(2) of the Gas Act 1986 (grant of gas transporter licences) so as to grant a gas transporter licence to a designated person, subject to subsection (2).

(2) The Secretary of State may only grant a gas transporter licence which authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project.

(3) The Secretary of State may exercise the power under section 7(4) of the Gas Act 1986 (direction to extend licence) so as to extend a gas transporter licence where—

(a) the licence is held by a designated person, and

(b) the extension authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project.

(4) The Secretary of State may exercise the power under section 7(4A) of the Gas Act 1986 (direction to restrict licence) so as to restrict a gas transporter licence where—

(a) the licence is or was held by a designated person, and

(b) the restriction is in connection with the revocation of the person's designation in relation to a hydrogen pipeline project.

(5) In its application for the purposes of subsections (1), (3) and (4), the Gas Act 1986 has effect as if—

(a) in the following provisions, references to the GEMA were to the Secretary of State—

(i) section 7(5) and (6)(a);

(ii) section 7B(9);

(iii) section 8(3), (4) and (5)(a);

(b) in sections 7(6)(b) and 8(5)(b), references to the Secretary of State were to the GEMA;

(c) in section 7B(4)(c), the reference to the GEMA included a reference to the Secretary of State, but only for the purpose of enabling the inclusion of conditions requiring the rendering of a payment on the grant of a licence;

(d) section 7B(9) also required a copy of the licence to be sent to the GEMA.

(6) When granting or extending a gas transporter licence by virtue of this section, the Secretary of State must have regard to—

(a) costs, expenditure or liabilities of any description that the designated person may reasonably be expected to incur in carrying out its activities;

(b) the need to secure that the designated person is able to finance its activities;

(c) the need to secure that the designated person has appropriate incentives in relation to the carrying on of its activities;

(d) such other matters as the Secretary of State considers appropriate.

(7) References in subsection (6) to a designated person's activities are to the person's activities for the purposes of—

(a) the designated project to which the grant or extension relates, and

(b) in the case of an extension, any other designated project already authorised by the person's gas transporter licence.

(8) A gas transporter licence granted, extended or restricted by the Secretary of State by virtue of subsection (1) has effect for all purposes as if it had been granted, extended or restricted by the GEMA."—*(Andrew Bowie.)*

This new clause provides that the Secretary of State may exercise the powers conferred on the Gas and Electricity Markets Authority by section 7 of the Gas Act 1986 to grant, extend or restrict gas transporter licences, so far as those powers relate to licences to be granted to or held by designated persons for the purposes of hydrogen pipeline projects.

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

New Clause 64

Applications for grant etc of gas transporter licence

"(1) The Secretary of State may by regulations make provision about the making, consideration and determination of relevant applications, including provision—

(a) about the person to whom a relevant application must be made;

(b) about the form and manner in which a relevant application must be made;

(c) imposing timing requirements in relation to the making of a relevant application;

(d) requiring a relevant application to be accompanied by such information and documents as may be specified in the regulations;

(e) requiring a relevant application to be accompanied by such fee (if any) as may be—

(i) specified in the regulations, or

(ii) determined, by the person to whom the application is made, in accordance with the regulations;

(f) about the matters to be taken into account in determining a relevant application;

(g) requiring a determination to be accompanied by reasons;

(h) requiring determinations to be published;

(i) conferring functions on the Secretary of State or the GEMA (including functions involving the exercise of a discretion);

(j) for anything falling to be determined under the regulations to be determined—

(i) by the Secretary of State, the GEMA or another person specified in the regulations, and

(ii) in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be so specified.

(2) 'Relevant application' means an application within any of the following paragraphs (whether made to the Secretary of State or the GEMA)—

(a) an application by a designated person for the grant of a gas transporter licence that authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project;

(b) an application by a designated person for the extension of a gas transporter licence held by the person so that it authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project;

(c) an application by a person who is or has been designated for the restriction of a gas transporter licence held by the person, in connection with the person's designation in relation to a hydrogen pipeline project ceasing to have effect.

(3) Provision made by virtue of subsection (1)(j)(ii) may in particular be made by reference to a document as amended from time to time.

(4) Regulations under this section—

(a) may provide for cases in which an application is not required;

(b) may provide for a relevant application that has been rejected by one person to be dealt with afresh by another person.

(5) Before making regulations under this section, the Secretary of State must consult the GEMA.

(6) Section 7B(1) to (2A) of the Gas Act 1986 does not apply to an application for the grant, extension or restriction of a gas transporter licence so far as the application is one to which regulations under this section apply.

(7) Any sums received by the Secretary of State or the GEMA by virtue of this section are to be paid into the Consolidated Fund.

(8) Regulations under this section are subject to the negative procedure.

(9) For the purposes of section 5A(1) to (10) of the Utilities Act 2000 (duty of the GEMA to carry out impact assessment), a function exercisable by the GEMA by virtue of regulations under this section is to be treated as if it were a function exercisable by it under or by virtue of Part 1 of the Gas Act 1986."—*(Andrew Bowie.)*

This new clause confers a power for the Secretary of State to make regulations about the procedure relating to applications for the grant, extension or restriction of a gas transporter licence for the purposes of a hydrogen pipeline project in relation to which a person is designated.

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

New Clause 65

Modification of gas transporter licence by Secretary of State

"(1) The Secretary of State may modify—

(a) the conditions of a designated person's gas transporter licence;

(b) the terms of a designated person's gas transporter licence;

(c) the standard conditions incorporated in gas transporter licences by virtue of section 8 of the Gas Act 1986;

(d) a document maintained in accordance with the conditions of licences of a relevant type or an agreement that gives effect to a document so maintained.

(2) The Secretary of State may exercise the power under subsection (1) only for the purpose of—

(a) facilitating or supporting the financing of the design, construction, commissioning or operation of a hydrogen pipeline project (or of hydrogen pipeline projects generally), or

(b) promoting value for money in connection with a hydrogen pipeline project (or in connection with hydrogen pipeline projects generally).

(3) When making modifications under subsection (1)(a) or (b), the Secretary of State must have regard to—

(a) the duties in sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets);

(b) the interests of existing and future consumers of gas conveyed through pipes, including their interests in relation to the cost and security of supply of gas;

(c) costs, expenditure or liabilities of any description that the designated person may reasonably be expected to incur in carrying out its activities;

(d) the need to secure that the designated person is able to finance its activities;

(e) the need to secure that the designated person has appropriate incentives in relation to the carrying on of its activities;

(f) such other matters as the Secretary of State considers appropriate.

In paragraph (b), 'gas' has the same meaning as in Part 1 of the Gas Act 1986 (see section 48(1) of that Act).

(4) The Secretary of State may modify the conditions or terms of a gas transporter licence held by a person who is or was a designated person in connection with the revocation of the person's designation in relation to a hydrogen pipeline project.

(5) For the purposes of subsection (1), each of the following is a relevant type of licence—

(a) a gas transporter licence;

(b) a licence under section 7A(1) of the Gas Act 1986 (gas supply licence);

(c) a licence under section 7AA of that Act (gas system planner licence);

(d) a licence under section 7AC of that Act (code manager licence).

(6) References in this section to a designated person's activities are to the person's activities for the purposes of—

(a) the designated project to which the modification relates, and

(b) any other designated project authorised by the person's gas transporter licence."—*(Andrew Bowie.)*

This new clause gives the Secretary of State power to modify the conditions or terms of a designated person's gas transporter licence, where the modification is for a purpose set out in subsection (2). It also requires the Secretary of State to have regard to specified matters when exercising the power to modify.

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

New Clause 66

Scope of modification powers under section (Modification of gas transporter licences by Secretary of State)

"(1) Modifications made under section (Modification of gas transporter licences by Secretary of State)(1)(a) may include, for example, provision—

(a) about the revenue that the designated person may receive in respect of its activities (its 'allowed revenue');

(b) about how the designated person's allowed revenue is to be calculated;

(c) about the amounts that the designated person is entitled to receive, or is required to pay, under any hydrogen transport revenue support contract (within the meaning of Chapter 1 of Part 2) to which it is a party;

(d) about activities that the designated person must, may or may not carry on;

(e) about the management of the designated person's activities, including the manner in which they are carried out;

(f) conferring functions on the GEMA, including provision enabling or requiring the designated person to refer for determination, decision or approval by the GEMA matters specified, or of a description specified, in the licence;

(g) for the amendment of the licence for the purpose of implementing a determination or decision of the GEMA or the Competition and Markets Authority;

(h) requiring the designated person to comply with any direction or instruction, or to have regard to any guidance, given by the GEMA in relation to matters specified, or of a description specified, in the licence;

(i) requiring the designated person to co-operate with the GEMA and to provide such information and assistance to the GEMA as it may require for the purposes of carrying out any of its functions;

(j) about the payment by the designated person, to the GEMA or to the Competition and Markets Authority, of such amounts as may be determined by or in accordance with the licence;

(k) about the disclosure or publication of information by the designated person.

(2) Modifications made under section (Modification of gas transporter licences by Secretary of State)(1)(b) may include, for example, provision about the circumstances in which a licence may be revoked or suspended.

(3) The powers under section (Modification of gas transporter licences by Secretary of State)(1) and (4) to 'modify' include the power to amend, add to or remove; and references to modification in section (Modification of gas transporter licences by Secretary of State), this section and section (Procedure etc relating to modifications under section (Modification of gas transporter licences by Secretary of State)) are to be construed accordingly.

(4) The powers conferred by section (Modification of gas transporter licences by Secretary of State)(1) and (4) —

(a) may be exercised generally, only in relation to specified cases, or subject to exceptions (including by making provision for a case to be excepted only so long as specified conditions are satisfied);

(b) may be exercised differently for different purposes or areas;

(c) include power to make incidental, supplementary, consequential or transitional modifications.

(5) Provision included in a gas transporter licence, or in a document or agreement described in section (Modification of gas transporter licences by Secretary of State)(1)(d), by virtue of section (Modification of gas transporter licences by Secretary of State)—

(a) need not relate to the activities authorised by the licence;

(b) may do anything authorised for gas transporter licences by section 7B(4A), (5)(a), (6) or (7) of the Gas Act 1986.

(6) The modification under section (Modification of gas transporter licences by Secretary of State)(1) or (4) of part of a standard condition of a gas transporter licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986.

(7) In section 81(2) of the Utilities Act 2000 (standard conditions of gas licences), after 'section 85' (as inserted by section 87(13) of this Act) insert ', (Modification of gas transporter licences by Secretary of State)(1) or (4)'.

(8) References in this section to a designated person's activities are to the person's activities for the purposes of—

(a) the designated project to which the modification relates, and

(b) any other designated project authorised by the person's gas transporter licence."—(*Andrew Bowie.*)

This new clause makes provision about the nature of the modifications that the Secretary of State may make to a designated person's gas transporter licence. The conditions mentioned in subsection (1)(a) and (b) are key to the regulated asset base model for hydrogen pipeline projects.

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

New Clause 67

Procedure etc relating to modifications under section (Modification of gas transporter licences by Secretary of State)

"(1) Before making a modification under section (Modification of gas transporter licences by Secretary of State)(1) or (4), the Secretary of State must consult—

(a) the holder of any licence being modified,

(b) the GEMA, and

(c) such other persons as the Secretary of State considers appropriate.

(2) If under section (Modification of gas transporter licences by Secretary of State)(1) the Secretary of State modifies the standard conditions of a gas transporter licence, the GEMA must—

(a) make the same modification of those standard conditions for the purposes of their incorporation in gas transporter licences granted after that time, and

(b) publish the modification.

(3) The Secretary of State must publish details of any modifications made under section (Modification of gas transporter licences by Secretary of State)(1) and (4) as soon as reasonably practicable after they are made.

(4) The Secretary of State may exclude from publication under subsection (3) any material the disclosure or publication of which the Secretary of State considers—

(a) would be likely to prejudice the commercial interests of any person, or

(b) would be contrary to the interests of national security."—(*Andrew Bowie.*)

This new clause makes provision about the procedure for making modifications under NC65.

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

New Clause 68

Information and advice

"(1) The Secretary of State may by regulations make provision about the provision and publication of information and advice in connection with the carrying out of functions of any person under or by virtue of this Part.

(2) The provision that may be made by virtue of subsection (1) includes provision—

(a) for the Secretary of State to require the GEMA to provide information to a hydrogen transport counterparty or any other specified person;

(b) for a hydrogen transport counterparty to require the GEMA to provide information to it;

(c) for the Secretary of State to require a designated person, a hydrogen transport counterparty or any other specified person to provide information to the GEMA;

(d) for the GEMA to require a designated person, a hydrogen transport counterparty or any other specified person to provide information to the GEMA;

(e) for the Secretary of State to require a designated person, a hydrogen transport counterparty, the GEMA or any other specified person to provide information or advice to the Secretary of State or any other specified person;

(f) for the classification and protection of confidential or sensitive information;

(g) for the enforcement of any requirement imposed by virtue of any of

paragraphs (a) to (f).

(3) Section 105(1) of the Utilities Act 2000 (general restrictions on disclosure of information) does not apply to a disclosure required by virtue of this section.

(4) The first regulations under this section are subject to the affirmative procedure.

(5) Any other regulations under this section are subject to the negative procedure.

(6) In this section—

'designated person' includes a person who has been a designated person;

'hydrogen transport counterparty' has the same meaning as in Chapter 1 of Part 2 (see section 56);

'specified person' means a person specified, or of a description specified, in regulations under this section.

(7) See also section 34(4) of the Gas Act 1986 (general duty for the GEMA to give information, advice and assistance to the Secretary of State or the Competition and Markets Authority)."—*(Andrew Bowie.)*

This new clause confers power on the Secretary of State to make regulations about the provision and publication of information and advice in connection with the new Part that is intended to be inserted after Part 2 of the Bill.

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

New Clause 69

CONDITIONS OF GAS TRANSPORTER LICENCES FOR CONVEYANCE OF HYDROGEN

"(1) For the purposes of this section, 'relevant licence' means a gas transporter licence so far as it authorises a person to convey hydrogen through pipes in connection with the carrying on of a hydrogen pipeline project.

(2) Without prejudice to the generality of section 7B(4)(a) of the Gas Act 1986 (conditions of licences), conditions described in subsection (3) may be included in a relevant licence in respect of circumstances where a person other than the licence holder ('the candidate')—

(a) has applied for, or is considering whether to apply for, a relevant licence, or

(b) is considering whether to apply for financial support for activities relating to the production, transportation, storage or use of hydrogen.

(3) The conditions referred to in subsection (2) are conditions that require the licence holder to comply with a direction given by the Secretary of State or the GEMA requiring the holder to provide to the candidate—

(a) information in relation to the activities authorised by the licence, and

(b) any other assistance that the candidate may reasonably require for the purpose of determining whether to—

(i) apply for a relevant licence, or

(ii) apply for financial support as mentioned in subsection (2)(b).

(4) A person ('P') may not under section 8(3) of the Gas Act 1986 modify a condition of a relevant licence unless P is of the opinion that the modification is such that—

(a) the licence holder would not be unduly disadvantaged in competing with one or more other holders of licences to which this section applies, and

(b) no other holder of a relevant licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the relevant licence to be modified)."—*(Andrew Bowie.)*

This new clause makes provision about particular conditions that may be included in gas transporter licences so far as they authorise the conveyance of hydrogen through pipes in connection with a hydrogen pipeline project.

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

New Clause 70

SECRETARY OF STATE DIRECTIONS TO THE GEMA

"(1) In exercising any functions it has in relation to relevant gas transporter licences, the GEMA must comply with general or particular directions given to it by the Secretary of State for the purpose of promoting value for money in connection with a hydrogen pipeline project (or in connection with hydrogen pipeline projects generally).

(2) In subsection (1), 'relevant gas transporter licence' means a gas transporter licence, held by a designated person, that authorises the conveyance of hydrogen through pipes in connection with the person's designated project."—*(Andrew Bowie.)*

The effect of this new clause is to require the Gas and Electricity Markets Authority, in exercising functions in relation to gas transporter licences connected with designated hydrogen pipeline projects, to comply with general or particular directions given by the Secretary of State.

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

New Clause 71

REPEAL OF PART

"(1) The Secretary of State may by regulations repeal any of the preceding provisions of this Part.

(2) So far as any of those provisions is still in force on a relevant date, the Secretary of State must—

(a) consider whether it is appropriate to repeal that provision, and

(b) if satisfied that it is not appropriate to do so, publish a statement no later than 3 months after that date explaining why not.

(3) 'Relevant date' in subsection (2) means 31 December 2040 and each five-year anniversary of that date.

(4) Regulations under this section are subject to the affirmative procedure."—*(Andrew Bowie.)*

This new clause empowers the Secretary of State to repeal the provisions of the new Part intended to be inserted after Part 2 once the additional powers in that Part are no longer needed. It requires the Secretary of State to justify a decision not to repeal any such provision by the date mentioned/

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

New Clause 72

POWER TO MODIFY GAS ACT 1986 IN RELATION TO HYDROGEN

"(1) The Secretary of State may by regulations provide for any provision of the Gas Act 1986—

(a) not to apply, or

(b) to apply with modifications specified in the regulations,

in relation to the production, transportation, storage or use of hydrogen.

(2) The power under subsection (1) may be exercised by amending the Gas Act 1986.

(3) The power under subsection (1) may be exercised only for the purpose of facilitating or promoting the production, transportation, storage or use of hydrogen.

(4) Before exercising the power under subsection (1), the Secretary of State must consult—

(a) the GEMA, and

(b) such other persons as the Secretary of State considers appropriate.

(5) Regulations under subsection (1) are subject to the affirmative procedure."—*(Andrew Bowie.)*

This new clause (intended to be inserted in Chapter 3 of Part 3) empowers the Secretary of State, after consultation with the Gas and Electricity Markets Authority, to modify the Gas Act 1986 in its application to hydrogen production, transportation, storage or use.

Brought up, and read the First time.

Andrew Bowie: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendments 168 and 170.

Andrew Bowie: We are racing through it this afternoon, Dr Huq.

The power in new clause 72 is specific to the unique role of hydrogen. The Gas Act 1986 regime was primarily designed around natural gas, and was established nearly 40 years ago. The possibility of using hydrogen as part of a major utility is recent by comparison. Although the Government consider it appropriate to use the Gas Act regime for hydrogen, there is inherent uncertainty in the use of a regime designed in a different era for a different type of gas. Given the highly technical and granular approach to regulation set out in the Gas Act, the issue of whether all of its relevant provisions should apply to hydrogen at scale cannot be fully tested without large-scale projects being operationalised. Therefore, any changes that may be needed cannot be put on the face of the Bill. If a problem is identified at the implementation stage, it will need to be addressed swiftly to ensure that projects are not adversely affected and that hydrogen's role as a key technology for the UK's net zero ambitions is not put in jeopardy.

This power, therefore, allows the Secretary of State, after consultation with the Gas and Electricity Markets Authority, to modify the Gas Act to remove unforeseen issues in relation to hydrogen production, storage, transport or use. The power is necessary to ensure that the Gas Act, initially designed for the natural gas markets, does not inadvertently prevent the hydrogen economy from being established. The Government consider it necessary to ensure that the deployment of, and significant investment in, hydrogen projects is not wasted as a result of unforeseen technicalities under the Gas Act.

This power is extremely important and is drafted with a very specific purpose and scope. It enables the Secretary of State to make regulations that provide for any provision of the Gas Act not to apply, or apply with modifications, only in relation to the production, transportation, storage or use of hydrogen. It may be used only for the purpose of facilitating or promoting the production, transportation, storage or use of hydrogen.

The new clause ensures appropriate procedural safeguards for a power of this type. There is a consultation duty under subsection (4), and all regulations are subject to the affirmative procedure to ensure that Parliament has appropriate oversight over any disapplication or modification deemed necessary.

Government amendments 168 and 170 are consequential on new clause 72, which provides powers to the Secretary of State to modify the Gas Act 1986 for a specific purpose and scope, as I have just set out. They clarify that the extent is England, Scotland and Wales because the territorial scope of the relevant provisions of the Gas Act is Great Britain.

Dr Whitehead: I congratulate you, Dr Huq, on your reading of the previous new clauses. You made their moving and agreeing sound much more interesting than certain other people have done in this Committee. It is rather like reading the football results and finding a surprise result now and again—it always changes slightly. We have further new clauses this afternoon, and I am sure that high standard will be maintained for the rest of our proceedings.

I have nothing further to add to what the Minister said. New clause 72 is a sensible provision and ought to be added to the Bill.

Andrew Bowie: I echo the comments of the hon. Gentleman in congratulating you, Dr Huq, on your reading of the new clauses, and welcome his welcoming of this part of the Bill.

The Chair: Any more for any more?

Kerry McCarthy (Bristol East) (Lab): I thought you were great.

Question put and agreed to.

New clause 72 accordingly read a Second time, and added to the Bill.

New Clause 73

GREAT BRITISH NUCLEAR

"(1) The Secretary of State may by notice designate a company as Great British Nuclear.

(2) A company may be designated under this section only if—

(a) it is limited by shares, and

(b) it is wholly-owned by the Crown.

(3) A notice under subsection (1)—

(a) must specify the time from which the designation has effect, and

(b) must be published by the Secretary of State as soon as reasonably practicable after the notice is given.

(4) The designation of a company terminates—

(a) if it ceases to be wholly-owned by the Crown, or

(b) if the Secretary of State revokes its designation by notice.

(5) A notice under subsection (4)(b)—

(a) must specify the time from which the revocation has effect, and

(b) must be published by the Secretary of State as soon as reasonably practicable after the notice is given.

(6) For the purposes of this section a company is wholly-owned by the Crown if each share in the company is held by—

(a) a Minister of the Crown,

(b) the Nuclear Decommissioning Authority established by section 1 of the Energy Act 2004,

(c) the United Kingdom Atomic Energy Authority established by section 1 of the Atomic Energy Authority Act 1954,

(d) a company which is wholly-owned by the Crown, or

(e) a nominee of a person falling within any of paragraphs (a) to (d).

(7) A company designated as Great British Nuclear under this section is exempt from the requirement in section 59 of the Companies Act 2006 (requirement as to use of 'limited' in company name).

(8) In this section—

'company' means a company registered under the Companies Act 2006;

'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act)."—*(Andrew Bowie.)*

This new clause allows the Secretary of State by notice to designate a company as Great British Nuclear, provided that the company is limited by shares and wholly-owned by the Crown.

Brought up, and read the First time.

Andrew Bowie: I beg to move, That the clause be read a Second time.

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

Government new clause 74—*Crown status.*

Government new clause 75—*Great British Nuclear's objects.*

Government new clause 76—*Financial assistance.*

Government new clause 77—*Secretary of State directions and guidance.*

Government new clause 78—*Annual report.*

Government new clause 79—*Annual accounts.*

Government new clause 80—*Transfer schemes.*

Government new clause 81—*Transfer schemes: compensation.*

Government new clause 82—*Transfer schemes: taxation.*

Government new clause 83—*Transfer schemes: provision of information or assistance.*

Government new clause 84—*Reimbursement and compensation in connection with designation.*

Government new clause 85—*Pension arrangements in connection with Great British Nuclear.*

Government amendment 174.

Andrew Bowie: I now come to the part of the Bill that I am most interested in—all of the Bill is interesting, but this is a very exciting moment, because I am now turning to a group of new clauses relating to the establishment of Great British Nuclear. The invasion of Ukraine and the subsequent rise in global energy prices have demonstrated the paramount importance of accelerating home-grown power. In response, we published the British energy security strategy in April last year, which committed to establish a civil nuclear projects delivery vehicle that will be known as Great British Nuclear, or GBN.

In March, we went further and published "Powering Up Britain", which announced the launch of GBN and fired the starting gun on the technology selection process for small modular reactors here in the UK. While that work is progressing at speed, with GBN currently operating within an existing legislative framework, these new clauses will ensure that GBN has the long-term operational mandate needed to carry out the role that the Government intend for it.

Government new clause 73 allows the Secretary of State to designate a company as Great British Nuclear, provided that that company is limited by shares and wholly owned by the Crown. GBN will exist as a Government company with the powers and flexibility given to it under the Companies Act 2006, ensuring that it can operate in the flexible manner that is reasonably required. As per the process involved with the designation, a notice must be published by the Secretary of State at the earliest practical opportunity detailing the time that the designation will have effect. If circumstances should arise where the GBN company ceases to be wholly owned by the Crown, the designation of such a company terminates.

Government new clause 74 confirms that a company designated as Great British Nuclear will not have Crown status. It also confirms that GBN's property will not be regarded as owned on behalf of the Crown. Government new clause 75 sets out the objectives of GBN:

"to facilitate the design, construction, commissioning and operation of nuclear energy generation projects for the purpose of furthering any policies published by His Majesty's government."

GBN will be a Government-owned company, and as such its general powers will be derived from the Companies Act 2006. The clause sets out how its general powers will be used and specifies that GBN's role is to help deliver Government policy for nuclear energy generation projects. In doing so, the clause makes it clear that GBN will always act in furtherance of Government policy.

Government new clause 76 allows the Secretary of State to give financial assistance to GBN to deliver its objectives. Funding can be provided to GBN in any form, including grant in aid, to fund GBN's operating costs. Financial assistance may also cover the acquisition of shares and other types of interest in bodies corporate, as well as in partnerships and other joint ventures. Funding will always be provided subject to conditions agreed by the Secretary of State. The exact level of funding provided for investment in new nuclear projects will be subject to future spending review decisions.

Government new clause 77 provides a power for the Secretary of State to issue guidance and directions to GBN, which may be specific or general in nature and that GBN is obligated to comply with. The power of direction and guidance will allow the Secretary of State to ensure that GBN is operating in line with the latest Government policy for nuclear. To ensure that the power does not compromise GBN's operational independence and respects its status as an expert body, the clause includes a requirement for the Secretary of State to consult with GBN and any other person they consider appropriate before issuing such direction and guidance. Those directions and guidance must be published, and any directions must be laid before Parliament.

[Andrew Bowie]

Government new clause 78 requires that GBN provide an annual report to the Secretary of State after the end of each financial year. The Secretary of State must lay this report before Parliament alongside any relevant comments they consider appropriate. Government new clause 79 places a requirement on GBN to send copies of its annual report and accounts to the Secretary of State before the end of the filing period. As with new clause 78, the Secretary of State is required to lay those documents before Parliament.

Government new clauses 80 to 85 help to facilitate any transfers that may be needed when designating a new company as Great British Nuclear and as its activities evolve over time. Turning first to Government new clause 80, the clause will empower the Secretary of State to make transfer schemes in connection with GBN. It sets out a set of principles, procedures and expectations for the transfer scheme that will help provide clarity to affected parties.

Government new clause 81 would provide a power for the Secretary of State to provide for compensation to a transferor when making a transfer scheme. The compensation value will be agreed between the Secretary of State and the transferor, or by an independent valuer in the absence of any agreement. In the absence of an agreement the Secretary of State can appoint a valuer on behalf of both parties.

3 pm

Government new clause 82 allows the Treasury to vary the way tax has effect in relation to transfers made under the transfer scheme. Government new clause 83 allows the Secretary of State to direct a person to provide specified information or assistance that they may reasonably require in connection with making a transfer scheme. Persons affected include those whose property, rights or liabilities are likely to be transferred, or a body corporate that is likely to be transferred under such a scheme. This information and assistance must be provided within the period and in the form and manner specified in the direction. The Secretary of State must reimburse a person for the costs incurred in complying with such a direction.

Finally, I turn to Government new clauses 84 and 85, and Government amendment 174. Government new clause 84 allows the Secretary of State to reimburse a person in respect of expenditure reasonably incurred in preparation for, or in connection with, the designation of a company as GBN.

Government new clause 85 allows the Secretary of State by regulations to make provision about pension arrangements in relation to GBN. The designation of a company as GBN and GBN's anticipated long-term role are likely to result in transfers of employees who are currently active members of a defined benefit scheme, some of whom will have special pension protections. Before the power is exercised, the relevant pension scheme trustees and principal employers must be consulted. Finally, Government amendment 174 establishes that the new clauses relating to Great British Nuclear extend to England, Wales and Scotland—that is to say, Great Britain.

Dr Whitehead: The Minister is slightly unwisely saying that this is the most exciting part of the Bill. We know that the provisions are exactly bang in the middle of the Minister's brief as part of the team at DESNZ, as we now call the Department—although I understand that there are instructions not to call it DESNZ. Quite how we pronounce it, I am unsure; for the sake of the Minister, I will undertake not to sneak DESNZ into *Hansard.*

The provisions relate to the establishment of Great British Nuclear. As a suite of new clauses, they are unexceptionable and the right thing to do in terms of getting Great British Nuclear off the ground—although, in a sense, Great British Nuclear is already off the ground, as it was launched in March. The provisions therefore underpin the activities of an existing body, rather than a created one. It might be useful to briefly consider what GBN is tasked to do in the first instance.

Charlotte Nichols (Warrington North) (Lab): My hon. Friend has hit on an important point. As chair of the all-party parliamentary group on nuclear energy, one of my concerns is the fact that Great British Nuclear is going to be in DESNZ at all. Does my hon. Friend agree that the Cabinet Office might be a more suitable Department, given that the two biggest issues in the delivery of new nuclear are planning and people, neither of which are under DESNZ's ministerial purview?

Dr Whitehead: My hon. Friend makes an interesting point; were I to cede to it entirely it would lead to great distress on the part of the Minister. Nevertheless, she makes the valid point that the exact placing of Great British Nuclear is one for further consideration. For now, it is starting off in DESNZ.

Let me read again from the factsheet that was given to me when the new clauses were being mooted. Under the heading "What will GBN do?" it says:

"GBN is tasked with facilitating delivery of government's nuclear programme. Its focus will be to de-risk new nuclear development by co-funding projects at the critical early development stage and acting as an expert adviser throughout the process.

Having launched within the auspices of the current legal framework in March 2023, the first priority for GBN is to lead a competitive process to select the best Small Modular Reactor (SMR) technologies for investment. This commenced in April 2023, with market engagement as the first phase. The second phase—the down-selection process—will be launched in the summer, with an aim to assess and select the leading technologies by autumn. GBN will deploy government funding to support the development of these selected technologies."

That sounds like a good idea but, as the Minister will be aware, a number of companies are actively engaged in small modular nuclear technology, and some of them are far more advanced than others and only one of them is fully British. Not only are they at various stages of advancement in their processes, but they are pursuing processes in small modular nuclear development that are very different in their size and application.

At one end, we have Rolls-Royce's proposals for a not very small, not very modular reactor at about 440 MW—that is, about the size of a medium to large gas-fired power station. Then we go down through the sizes of a number of other companies engaged in the process, and not just through sizes but from pressurised water through

to molten salt through to thorium. Then, at what we could say is the bottom end, and with probably an entirely different function, there are the proposals by Last Energy. My hon. Friend the Member for Warrington North has had considerable discussion with that company. Last Energy has made quite a lot of advancement at an early stage in procuring potential contracts for its plants, should they be built. It considers that its proposals do not need to go through the generic consenting process because they are small versions of existing pressurised water arrangements, so they could get going quickly and early. Indeed, in the United States, Last Energy has already constructed a number of the modular reactors that will go forward. Most significantly, it says it does not require any Government assistance or funding for its purposes.

As far as I can see, though, all those different companies and technologies of different sizes and applications are being placed, through Great British Nuclear, into a competition to find the best technology. The best technology will win, and the winner will then have Government funding to support the development of the selected technologies. I wonder whether, in the context of some of those companies saying that their technology does not need to be selected for Government funding—they can actually go ahead and do it—the development of the competition in that way might be seen as a brake on the development of small modular nuclear in the UK, rather than an assistance.

We must be careful with the competitive process. If it puts the stoppers on development in certain places because the competition has not yet been realised, the people developing the proposals may well say to themselves, "Actually, this is not a very fast process after all." They are ready to go and can get themselves developing pretty quickly, but meanwhile they have to jump through the hoops of a competitive process that they do not want to enter, and they may or may not come out as the winner in the end.

I am sure the Minister has a good answer to my concerns. If I were very unworthy, I might suggest that the competition was launched to, among other things, ensure that the Rolls-Royce proposals get a good looking at, bearing in mind that they are not as well advanced as some other small modular nuclear developers' proposals, and putting them all on the same level means that Rolls-Royce gets to the starting point in a better order than it might have done otherwise. However, I am sure that is a very unworthy thing to say and that that is far from the Minister's mind.

I would like to know whether the competition will include all technologies or exclude some of them. Or will it be a mixed bag of arrangements whereby those that are able to make progress at an earlier stage than the competition suggests are basically left alone, and the competition does not impede that progress? That does not particularly affect the way GBN is set up as far as the new clauses are concerned. As my hon. Friend the Member for Warrington North said, we have a question about the final placement of GBN, but I do not have any objections or particular concerns about the way it is set up. I have more concerns about what it is going to do in the first instance, and whether that will push small modular nuclear forward or not, depending on how the arrangements are carried out.

Andrew Bowie: I thank the hon. Gentleman for his overall warm comments on the establishment of Great British Nuclear to drive forward this Government's plans, and those of subsequent Governments, for the development of nuclear technology and our civil nuclear fleet in the United Kingdom.

Given that the drawdown selection process is ongoing, I cannot make reference to any specific company or technology involved in it. I do not want to get drawn into that. However, I reassure the hon. Gentleman that on 13 July, when we formally launch Great British Nuclear, much more information will be forthcoming about the competition and everything else.

The Government have decided to invest money in technologies to further develop small modular reactors in the United Kingdom. To enable us to do that and get best value for the British taxpayer and, indeed, to ensure that taxpayers' money is invested in the best technologies, the decision has been made that we will run a competitive down-selection process. As I have said, that process will be formally launched on 13 July. There will be an interim announcement in, we hope, the early autumn, proceeding to a final announcement of technologies early next year. By the way, we are moving three times faster than any comparable jurisdiction in the world, including countries such as Canada that have gone through this process before.

3.15 pm

The process absolutely will not preclude, disincentivise nor stand in the way of any company that says, "We can develop SMR in the United Kingdom and we don't need the Government's money to proceed." The process is to determine where the UK Government will spend the investment that we are seeking to make in the future of SMR in this country, but we are not saying to other companies that want to come in and do not need Government support that we are closing the door to them. We are open and willing to accept applications for development on sites around the UK.

The hon. Gentleman is absolutely right that the new technologies that are being developed in this sphere are absolutely fascinating, incredibly exciting and moving at great speed. Developments in micro-modular reactors could be transformative to British industry throughout the country. This process will be just the first part of what Great British Nuclear is looking to do. Post the drawdown selection process, we will look at further gigawatt-scale projects so that we can meet our stated ambition of having 24 GW of nuclear power on the grid by 2050.

I am pleased that the hon. Gentleman warmly welcomes Great British Nuclear and hope that I have allayed his fears regarding the drawdown selection process. As I have said, much more information on the competition will be forthcoming on 13 July, when the Secretary of State and I, alongside Simon Bowen and Gwen Parry-Jones—respectively the chair and chief executive officer of Great British Nuclear—will launch it formally here in London.

Question put and agreed to.

New clause 73 accordingly read a Second time, and added to the Bill.

New Clause 74

CROWN STATUS

"(1) Great British Nuclear is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

(2) Great British Nuclear's property is not to be regarded as property of, or property held on behalf of, the Crown."—*(Andrew Bowie.)*

This new clause makes it clear that Great British Nuclear does not have Crown status.

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

New Clause 75

GREAT BRITISH NUCLEAR'S OBJECTS

"Great British Nuclear's objects are to facilitate the design, construction, commissioning and operation of nuclear energy generation projects for the purpose of furthering any policies published by His Majesty's government."—*(Andrew Bowie.)*

This new clause sets out Great British Nuclear's objects of facilitating the design, construction, commissioning and operation of nuclear energy generation projects for the purpose of furthering HM Government's policies.

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

New Clause 76

FINANCIAL ASSISTANCE

"(1) The Secretary of State may provide financial assistance—

(a) to Great British Nuclear, or

(b) to any other person to facilitate the design, construction, commissioning and operation of nuclear energy generation projects.

(2) Financial assistance under this section may be provided in any form and in particular may be provided—

(a) by way of grant, loan, guarantee or indemnity,

(b) by the acquisition of shares or any other interest in a body corporate,

(c) by the acquisition of any undertaking or of any assets,

(d) pursuant to a contract, or

(e) by incurring expenditure for the benefit of the person assisted.

(3) Financial assistance under this section may be provided subject to such conditions as the Secretary of State considers appropriate, which may include—

(a) conditions about repayment with or without interest or other return, or

(b) conditions with which Great British Nuclear or any recipient of financial assistance under subsection (1)(b) must comply if the financial assistance is used for—

(i) acquiring shares or any other interest in a body corporate, or

(ii) participating in a partnership or joint venture.

(4) The power to provide financial assistance under this section is in addition to (and does not limit or replace) any other power of a Minister of the Crown to provide financial assistance.

(5) In this section—

'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act);

'partnership' means—

(a) a partnership within the meaning of the Partnership Act 1890, or

(b) a limited partnership within the meaning of the Limited Partnerships Act 1907."—*(Andrew Bowie.)*

This new clause allows the Secretary of State to give financial assistance to Great British Nuclear or any other person to facilitate the design, construction, commissioning and operation of nuclear energy generation projects.

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

New Clause 77

SECRETARY OF STATE DIRECTIONS AND GUIDANCE

"(1) The Secretary of State may from time to time give Great British Nuclear directions or guidance.

(2) Before giving a direction or issuing guidance the Secretary of State must consult Great British Nuclear and such other persons as the Secretary of State considers appropriate.

(3) Directions may be general or particular in character.

(4) Great British Nuclear must—

(a) comply with any directions given to it under this section, and

(b) have regard to any guidance given to it under this section.

(5) The Secretary of State must—

(a) publish and lay before Parliament any directions given to Great British Nuclear under this section, and

(b) publish any guidance given to Great British Nuclear under this section."—*(Andrew Bowie.)*

This new clause allows the Secretary of State to give Great British Nuclear directions or guidance. The directions and guidance must be published and any directions must be laid before Parliament.

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

New Clause 78

ANNUAL REPORT

"(1) Great British Nuclear must, after the end of each reporting year, send a report to the Secretary of State about the activities it has undertaken during that year.

(2) The Secretary of State must lay a copy of the report before Parliament together with any comments that the Secretary of State considers appropriate.

(3) In this section 'reporting year', in relation to Great British Nuclear, means a period of 12 months ending with 31 March (but does not include any period before its designation as Great British Nuclear)."—*(Andrew Bowie.)*

This new clause requires Great British Nuclear to send an annual report to the Secretary of State.

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

New Clause 79

ANNUAL ACCOUNTS

"(1) Great British Nuclear must send a copy of its accounts and reports for each financial year to the Secretary of State before the end of the period for filing those accounts and reports.

(2) The Secretary of State must lay a copy of any accounts and reports received under subsection (1) before Parliament.

(3) In this section—

'accounts and reports' means, in relation to Great British Nuclear, the annual accounts and reports that Great British Nuclear's directors must deliver to the registrar under section 441 of the Companies Act 2006;

'financial year', in relation to Great British Nuclear, means Great British Nuclear's financial year determined in accordance with section 390 of the Companies Act 2006;

'period for filing', in relation to accounts and reports for a financial year, has the same meaning as in the Companies Acts (see section 442 of the Companies Act 2006);

'the registrar' has the meaning given by section 1060(3) of the Companies Act 2006."—*(Andrew Bowie.)*

This new clause requires Great British Nuclear to send its annual accounts and reports to the Secretary of State for them to be laid before Parliament.

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

New Clause 80

Transfer schemes

"(1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—

(a) to a GBN body or a proposed GBN body from—

(i) a former GBN body;

(ii) a GBN body;

(iii) a proposed GBN body;

(iv) a Minister of the Crown or Crown body;

(v) a designated BNFL body;

(vi) an NDA body;

(vii) a UKAEA body;

(viii) a nominee of a person falling within any of sub-paragraphs (i) to (vii);

(b) to a former GBN body, a Minister of the Crown or Crown body, a designated BNFL body or a public body from—

(i) a former GBN body;

(ii) a GBN body.

(2) The things that may be transferred under a transfer scheme include—

(a) rights and liabilities relating to a contract of employment;

(b) property, rights and liabilities that could not otherwise be transferred;

(c) property acquired, and rights and liabilities arising, after the making of the scheme;

(d) criminal liabilities.

(3) A transfer scheme may—

(a) create rights, or impose liabilities, in relation to property, rights or liabilities transferred;

(b) make provision about the continuing effect of things done by a transferor in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to a transferor in respect of anything transferred;

(d) make provision for references to a transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;

(e) make provision for shared ownership or use of the property;

(f) make provision for apportioning property, rights or liabilities;

(g) require a transferor, an associate of a transferor, or a transferee, to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme;

(h) make provision for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;

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

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

(k) make provision for reimbursing any person in respect of expenditure reasonably incurred by the person in connection with the making of a transfer scheme;

(l) make provision that has the same or similar effect to the TUPE regulations;

(m) make other consequential, supplementary, incidental or transitional provision.

(4) A transfer scheme may provide—

(a) for modifications by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(5) A transfer scheme may make provision requiring a transferor to provide such co-operation to a transferee as the transferee may reasonably require in connection with the implementation of the scheme.

(6) The co-operation that may be required by virtue of subsection (5) includes, in particular, co-operation in relation to—

(a) the provision of information;

(b) consultation with representatives of employees transferred by the scheme.

(7) Any requirement imposed on a person by a transfer scheme is enforceable by the Secretary of State in civil proceedings—

(a) for an injunction,

(b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or

(c) for any other appropriate remedy or relief.

(8) Before making a transfer scheme, the Secretary of State must consult—

(a) the transferor (or, if there is more than one transferor, the transferors), and

(b) such other persons as the Secretary of State considers appropriate.

(9) Subsection (8) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

(10) The making of a transfer scheme is not a trigger event for the purposes of the National Security and Investment Act 2021.

(11) In this section—

'associate' has the meaning given by section 1152 of the Companies Act 2006;

'company' means a company registered under the Companies Act 2006;

'Crown body' means any body corporate in which a Minister of the Crown holds, directly or indirectly, any shares or other interest;

'designated BNFL body' means a company designated for the purposes of Schedule 7 to the Energy Act 2004 or any body corporate in which a company designated for those purposes holds, directly or indirectly, any shares or other interest;

'former GBN body' means—

(a) a company formerly designated as Great British Nuclear, or

(b) any body corporate in which a company formerly designated as Great British Nuclear—

(i) holds, directly or indirectly, any shares or other interest, and

(ii) held, directly or indirectly, any shares or other interest, at a time at which it was designated as Great British Nuclear;

'GBN body' means Great British Nuclear or any body corporate in which Great British Nuclear holds, directly or indirectly, any shares or other interest;

'information' includes documents;

'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act);

'NDA company' means the Nuclear Decommissioning Authority (established by section 1 of the Energy Act 2004) or any body corporate in which the Nuclear Decommissioning Authority holds, directly or indirectly, any shares or other interest;

'proposed GBN body' means a company that the Secretary of State proposes to designate as Great British Nuclear or any body corporate in which a company proposed to be designated for those purposes holds, directly or indirectly, any shares or other interest;

'public body' means a body established by an enactment (within the meaning of Part 1 of this Act) or any body corporate in which a body established by an enactment holds, directly or indirectly, any shares or other interest;

'the TUPE regulations' means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);

'UKAEA body' means the United Kingdom Atomic Energy Authority (established by section 1 of the Atomic Energy Authority Act 1954) or any body corporate in which the United Kingdom Atomic Energy Authority holds, directly or indirectly, any shares or other interest."—*(Andrew Bowie.)*

This new clause allows the Secretary of State to make transfer schemes to transfer property, rights and liabilities to and from the bodies listed in subsection (1).

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

New Clause 81

TRANSFER SCHEMES: COMPENSATION

"(1) A scheme under section (Transfer schemes) may provide for a transferor or any person who has suffered loss or damage in consequence of the scheme to be entitled to compensation from the Secretary of State or a transferee under the scheme, in accordance with provision made by or under the scheme.

(2) Where a person is entitled to compensation, the amount of compensation is to be the amount—

(a) agreed by the Secretary of State and the person, or

(b) in the absence of such agreement, determined by an independent valuer.

(3) An independent valuer appointed for the purposes of subsection (2) must be appointed—

(a) by the Secretary of State and the person, or

(b) in the absence of such agreement, by the Secretary of State on behalf of both the Secretary of State and the person.

(4) The Secretary of State may by regulations make provision about compensation under this section that corresponds or is similar to any provision about compensation that may be made by the Secretary of State by regulations under paragraph 8(5) of Schedule 7.

(5) Regulations under this section are subject to the negative procedure."—*(Andrew Bowie.)*

This new clause allows the Secretary of State, when making transfer schemes under the new clause inserted by NC80, to provide for compensation to a transferor or a person who has suffered loss or damage in consequence of such a scheme.

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

New Clause 82

TRANSFER SCHEMES: TAXATION

"(1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—

(a) anything transferred under a scheme under section (Transfer schemes), or

(b) anything done for the purposes of, or in relation to, a transfer under such a scheme.

(2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;

(b) anything transferred to be treated in a specified way for the purposes of a tax provision;

(c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything transferred.

(3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, the transfer;

(b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;

(c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.

(4) In this section—

(a) 'relevant tax' means income tax, corporation tax, capital gains tax, stamp duty, stamp duty reserve tax, stamp duty land tax or value added tax;

(b) 'tax provision' means any provision—

(i) about a relevant tax, and

(ii) made by an enactment (within the meaning of Part 1 of this Act);

(c) references to the transfer of a property include the grant of the lease.

(5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons."—*(Andrew Bowie.)*

This new clause allows the Treasury to vary the way tax has effect in relation to things transferred under transfer schemes made under the new clause inserted by NC80.

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

New Clause 83

TRANSFER SCHEMES: PROVISION OF INFORMATION OR ASSISTANCE

"(1) The Secretary of State may direct a person within subsection (2) to provide the Secretary of State with such specified information or assistance as the Secretary of State may reasonably require in connection with the making of a scheme under section (Transfer schemes).

(2) A person is within this subsection if—

(a) property, rights or liabilities are likely to be transferred from or to the person by such a scheme, or

(b) the person is a body corporate that is likely to be transferred under such a scheme.

(3) Paragraph 12(4), (6), (7) and (8) of Schedule 7 apply to a direction under this section as they apply to a direction under sub-paragraph (1) of that paragraph.

(4) In this section—

'assistance' includes assistance provided in a country or territory other than the United Kingdom;

'information' includes documents;

'specified' means specified in the direction."—*(Andrew Bowie.)*

This new clauses allows the Secretary of State to give the persons in subsection (2) a direction to provide the Secretary of State with information or assistance in connection with making a transfer scheme under the new clause inserted by NC80.

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

New Clause 84

Reimbursement and compensation in connection with designation

"The Secretary of State may reimburse a person in respect of expenditure reasonably incurred by the person in preparation for or in connection with the designation of a company under section (Great British Nuclear) (other than any expenditure incurred in connection with the making of a scheme under section (Transfer schemes))."—*(Andrew Bowie.)*

This new clause allows the Secretary of State to reimburse a person in respect of expenditure reasonably incurred in preparation for or in connection with the designation of a company as GBN.

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

New Clause 85

Pension arrangements in connection with Great British Nuclear

"(1) The Secretary of State may by regulations make provision about pension arrangements in relation to Great British Nuclear that corresponds or is similar to any provision about pension arrangements in relation to the ISOP that may be made by the Secretary of State by regulations under paragraph 2 or 3 of Schedule 8 (see paragraph 4 of that Schedule for restrictions on how the power to make regulations under paragraph 2 or 3 of that Schedule may be exercised).

(2) Before making regulations under subsection (1) that make provision corresponding or similar to the provision that may be made by regulations under paragraph 2(1) of Schedule 8, the Secretary of State must carry out a consultation corresponding to the consultation required by paragraph 2(5) of that Schedule.

(3) Before making regulations under subsection (1) that make provision corresponding or similar to the provision that may be made by regulations under paragraph 3(1) of Schedule 8, the Secretary of State must carry out a consultation corresponding to the consultation required by paragraph 3(4) of that Schedule.

(4) Subsections (2) and (3) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

(5) The Secretary of State may direct a person within subsection (6) to provide the Secretary of State with specified pensions information or such specified assistance as the Secretary of State may reasonably require in preparation for or in connection with the exercise of the power conferred on the Secretary of State by subsection (1).

(6) The following persons are within this subsection—

(a) the trustee of a qualifying pension scheme;

(b) any person who exercises functions on behalf of a person within paragraph (a);

(c) any person who is or has been an employer of a qualifying member of a qualifying pension scheme.

(7) Sub-paragraphs (5) to (7) of paragraph 5 of Schedule 8 apply to a direction given under subsection (5) as they apply to a direction given under sub-paragraph (1) of that paragraph.

(8) The exercise of the power conferred on the Secretary of State by subsection (1) is not a trigger event for the purposes of the National Security and Investment Act 2021.

(9) In this section—

'pensions information' means information that—

(a) relates to pensions or other benefits under a qualifying pension scheme, or

(b) relates to the administration of a qualifying pension scheme in respect of pensions or other benefits under the scheme;

'qualifying member', in relation to a qualifying pension scheme, means a person who is or has been a member (as defined by section 124(1) of the Pensions Act 1995) of the scheme;

'qualifying pension scheme' means a pension scheme that provides for the payment of pensions or other benefits to or in respect of employees or former employees of—

(a) a transferor in relation to a transfer scheme under section (Transfer schemes), or

(b) an associate (as defined by section 1152 of the Companies Act 2006) of such a transferor;

'specified' means specified in the direction.

(10) Regulations under this section are subject to the negative procedure.—*(Andrew Bowie.)*

This new clause allows for pension arrangements to be made in relation to Great British Nuclear that correspond or are similar to those which may be made in relation to the Independent System Operator and Planner (provided for in Part 4).

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

Ordered, That further consideration be now adjourned. —*(Joy Morrisey.)*

3.23 pm

Adjourned till Tuesday 27 June at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

EB26 Professor Maria Sharmina, Dr Tim Braunholtz-Speight, and Dr Edward Manderson, The University of Manchester