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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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The following abbreviations are used to show a Member's party affiliation:

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

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House of Lords

Wednesday 14 December 2022

1 pm

Prayers—read by the Lord Bishop of Chelmsford.

Health: Malnutrition

Question

1.07 pm

Asked by ***Lord Sikka***

To ask His Majesty's Government what assessment they have made of the number of people affected by malnutrition or undernutrition in England.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): NHS Digital reported that between 2021 and 2022 there were 896 admissions with a primary diagnosis of malnutrition, and 9,828 with a secondary diagnosis of malnutrition. Malnutrition is a clinical diagnosis most often associated with underlying disease and is not primarily a result of an inadequate diet. ONS data shows that the number of deaths where malnutrition is the underlying cause is low, but we continue to train health and care staff to spot early warning signs.

Lord Sikka (Lab): My Lords, I thank the Minister for his reply. Age UK estimates that one in 10 people over the age of 65 is malnourished or at risk of malnutrition. The British Association for Parenteral and Enteral Nutrition estimates that 3 million people are affected by malnutrition or undernutrition, and 1.3 million of these are over 65. Can the Minister explain which of the Government's policies have created this dire situation?

Lord Markham (Con): I do not think that any of the policies have created this situation. As I was quite clear with the numbers—which I will happily repeat—the primary cause of people being admitted is actually the result of another underlying disease; they are not there as a result of malnutrition.

Baroness Lister of Burtersett (Lab): My Lords, one group who are undernourished are hungry children from struggling families who have not had breakfast; yet government funding for school breakfasts reaches—at best—only about a quarter of children in the most deprived schools in England, according to Magic Breakfast. In the interests of hungry children's education and health, will the Government expand their support for free breakfasts, at a time when both family and school budgets are under great strain?

Lord Markham (Con): I think we all appreciate the value of the Healthy Start initiative and the school lunch programme. At the same time, data from the national child measurement programme shows that the proportion of underweight children in reception is 1.2% and 1.5% in year 6 children, considerably below the 2% level expected in a healthy population.

The Lord Speaker (Lord McFall of Alcluith): My Lords, we have a virtual contribution from the noble Baroness, Lady Brinton.

Baroness Brinton (LD) [V]: My Lords, Healthy Start vouchers worth £8.50 a week are available for the lowest-income families whose babies are under the age of one. However, charities including BPAS are reporting that the price of infant formula milk has surged by over 20% this year, meaning that the vouchers are no longer sufficient to pay for the cheapest formula needed to safely feed a young baby. Will the Government increase the value of the Healthy Start allowance to £10 a week for these infants, to ensure that these babies can have sufficient nutrition to give them a good start in life?

Lord Markham (Con): I thank the noble Baroness. Clearly, a good start to life in terms of nutrition is vital. That is something that I will take away. We want to make sure that we are always up to date and that everything is right. As I said, the overall position, fortunately, is that we have lower levels than you might expect from a healthy population, but that is not to say that we are complacent.

Lord Hannan of Kingsclere (Con): My Lords, the House has been consistent and united in wishing to see the eradication of food poverty. Will my noble friend the Minister confirm that one of the ways we can do that is to reduce tariff and non-tariff barriers on imported food? I hope the House will be similarly united in wanting to have ambitious trade deals with India, the Trans-Pacific Partnership and the rest so as to remove tariffs that fall hardest on the people who are poorest.

Lord Markham (Con): Absolutely. Everything we can do to minimise the cost of food to make it affordable to the most people clearly will be welcomed.

Baroness Boycott (CB): My Lords, does the Minister accept that malnutrition is not just having too little food but eating the wrong food? A lot of the high-fat, high-sugar, high-salt and HBV food sold in our shops is really bad. Indeed, the *Financial Times* said the other day that 80% of a certain brand of chocolate's products should not even be on the streets. One thing the Government could do is extend the take-up of free school meals by increasing the limit. At the moment, if you are on universal credit and you earn over £7,400 you are not allowed a free school meal; in Wales it is £14,000 and in Scotland they are free for primary schoolchildren. Could the Minister look at this as a matter of urgency?

Lord Markham (Con): The noble Baroness is correct. I learned something in this process, which is always good, which is that malnutrition can be undernutrition or overnutrition. Some of the debates we have had on

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obesity are absolutely part of this whole agenda. That is why I was pleased to see that the action we have taken to date has been very effective on obesity as well as in this field. At the same time, my understanding is that free school meals are at their highest level of take-up than they ever have been and they play a vital role in making sure that the diet of all our children is healthy.

The Lord Bishop of St Albans: My Lords, food banks across my diocese are reporting a huge increase in need and a huge decrease in the amount of food being donated, simply because of the cost of living crisis. One of the things that makes a difference for food banks is having enough capacity to freeze food. There is an urgent need to see whether we can help them with freezers. Is there anything the Government can do to work with food banks to help them increase their capacity for storing food when it is spare so that is available at other times?

Lord Markham (Con): I will need to look into that. I had the opportunity to speak to Sir Chris Whitty on this subject, given its importance. He related me back to an IFS study in 2008 that looked at the impact then of the economic crisis, in terms of what it meant for people and malnutrition. It found that it did not have an impact, so he is not expecting this cost of living crisis to have an impact on food poverty. That is not to say that we should not look at every measure that we can to make sure that there is plenty to go around.

Lord Dobbs (Con): My Lords, is something not missing from this debate, which is the same as the one we had yesterday about free school meals? It is any mention of family. At the end of the day, families have ultimate responsibility for their children. Without trying to undermine all the very good efforts the Government are making to help those families who need it, breakfast time can be not only nutritionally important but morally, spiritually and socially important for families. We must never forget the importance of supporting families to get on with that prime responsibility. Does my noble friend agree?

Lord Markham (Con): I totally agree with my noble friend. We all know that a good start to life is massively helped by families. At the same time, we appreciate that some families need a helping hand, and our Healthy Start programme and free school meals are all about supporting families where they need it.

Baroness Merron (Lab): My Lords, the spiralling cost of living is a major challenge to people being able to eat healthily. Evidence suggests that there is also a need to improve understanding of information about nutrition, as a borne out by the charity Bite Back 2030, which found that while 73% of young people think they are eating healthily, actually only 6% of them really are. What assessment have the Government made of the link between poor nutrition, misinformation and eating disorders among young people and how will they address this?

Lord Markham (Con): Clearly, education is a key part of this, and mental health is as well. As mentioned before, the root cause of people being undernourished is not their food intake but other things, such as mental health issues and eating disorders. I agree with the noble Baroness that education and the work we are doing in the mental health space are key.

Lord Aberdare (CB): My Lords, one reason for malnutrition in older people is the belief that weight loss is normal in older people. What are the Government doing to increase awareness that this is not the case and to ensure that weight loss is not taken for granted but is investigated further?

Lord Markham (Con): Local health and care providers are responsible for commissioning malnutrition services based on the guidelines to make sure that they can identify people who need help.

Baroness Ritchie of Downpatrick (Lab): My Lords, given that the Government's White Paper on food, published earlier this year, indicated that the Government have a central role to play in addressing health inequalities and a responsibility to provide a food environment that enables individuals to make healthier choices, will the Minister indicate what work, if any, is being done with the devolved nations and regions through the food data transparency partnership to reduce food inequalities and address malnutrition?

Lord Markham (Con): I am aware that we are working very closely with the devolved authorities. We worked with the devolved authorities on the regulations that we brought in recently, which were agreed by this House, about obesity and the placement of food in supermarkets. It is something we all take very seriously.

Clean Energy: Investment

Question

1.18 pm

Asked by ***Baroness Worthington***

To ask His Majesty's Government how they are working across departmental boundaries to ensure that the effectiveness of investments in clean energy is being maximised.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): Driving investment into UK clean energy is a priority for this Government to improve energy security, reduce emissions and boost jobs and growth across the country. We are backing our targets and ambitions with policy and targeted funding. Since March 2021, the Government have committed £30 billion of investment in domestic green policies. The policies are already expected to drive an unprecedented £100 billion of private investment and to support 480,000 jobs by 2030.

Baroness Worthington (CB): I thank the Minister for his response. There are a number of supplementary questions I could ask around the lack of joined-up government on clean energy investments, but the one on which I am keen to hear more is what we will do with excess clean electricity to have maximum effect for reaching our environmental goals. Specifically, how will we use excess electricity to create hydrogen for fertilisers? We talk a lot about hydrogen being used in the home for heating, which I do not think is a good idea, or hydrogen for transport, but hydrogen has a use in fertiliser production. If Defra and BEIS work together, we could become at the forefront of that industry of clean, green, fertiliser production at a time when prices are sky-high and we need alternatives.

Lord Callanan (Con): The noble Baroness makes a very good point. One of the policy challenges we will have is how to use some of what she refers to as excess clean energy. With renewables being intermittent, there are times with large amounts of available spare electricity and other times when there is not enough. Hydrogen could clearly play a key role in that, and one of the uses of that excess electricity is to produce clean hydrogen.

Baroness Altmann (Con): My Lords, this year's Climate Change Committee report to Parliament on climate adaptation found that planning for global warming levels of 2 degrees centigrade was not happening, and that the UK's energy, water, digital and transport providers are struggling to take account of climate-related risks to connected infrastructure systems, which could cause cascading failures. When do the Government intend to act on the priorities identified by the Climate Change Committee, particularly in addressing risks to critical energy infrastructure?

Lord Callanan (Con): Of course, we liaise very closely with the Climate Change Committee. There is a huge amount of investment going into energy infrastructure. I have referred in the House before to the amount of change that will happen in our energy infrastructure as we diversify the grid. My noble friend makes a good point.

Baroness Liddell of Coatdyke (Lab): Does the noble Lord agree that cleaning up energy is just as important as clean energy? As he knows, I have an interest in carbon capture and storage. So many times over the past few years has the investment community been marched up to the top of the hill and then disbanded. Does he agree with me that a strong signal needs to be given to that community that carbon capture, utilisation and storage is a key part, going forward, of clean energy?

Lord Callanan (Con): Indeed, I agree with the noble Baroness, which is why we are supporting the deployment of CCUS with our £1 billion infrastructure fund.

Lord Teverson (LD): My Lords, one of the main failures of departmental co-operation is the paucity of recharging points for EVs in rural areas. There are absolute wastelands. Is the Minister's department, which is in charge of decarbonisation, really pushing the Department for Transport to makes sure that the distribution of charging points is effective, large and in rural areas?

Lord Callanan (Con): As the noble Lord correctly says, the rolling out of charging points is the responsibility of the DfT, but I know that it has an extensive programme of grant support. Clearly some local authorities perform better than others but, if we are to continue the rollout of electric cars, an extensive network of charging points is vital.

Viscount Trenchard (Con): My Lords, I declare my interests as set out in the register. I ask the Minister to confirm that he agrees that clean energy includes nuclear energy, and that the failure of wind and solar power to make any real contribution in current extremely cold conditions strengthens the case to accelerate plans to bring forward commercial schemes to deploy SMR technologies, including Japan's high-temperature gas-cooled reactor technology, whose demonstrator has been running safely for more than 10 years.

Lord Callanan (Con): Without getting into supporting particular types of technology, I certainly agree with my noble friend that the rollout of nuclear is particularly important. It offers large-scale carbon-free electricity, which is why we recently announced our investment in Sizewell C.

Lord Ravensdale (CB): My Lords, what assessment have the Government made of their ability to meet the 2030 offshore wind targets of 50 gigawatts? There are a number of challenges here: the change in macroeconomic conditions; higher interest rates; and competition in global supply chains.

Lord Callanan (Con): The noble Lord makes a very good point. We have been particularly successful in rolling out offshore wind in this country. I have made the point before that we have by far the largest rollout in Europe. In fact, so successful have we been that the rest of Europe is now trying to copy us, which of course will challenge supply chains. But we are working very closely with all the suppliers, many of which are expanding their production in the UK to make sure that we can successfully meet our ambitious target.

Baroness Blake of Leeds (Lab): My Lords, the Government announced earlier this year that their main form of renewable investment—contracts for difference—would move to more frequent allocation rounds, beginning next year. This is welcome, as we have said; but what consideration have the Government given to complementing this with the voluntary contracts for difference process for existing generators, which would grant generators longer-term revenue certainty and safeguard consumers from further price rises?

Lord Callanan (Con): The noble Baroness is right that the contracts for difference scheme has been extremely successful. Many of the generators are now

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paying back into the system because the strike price is below the market price. We will roll out as many additional CfD schemes as we can in future years.

Baroness Jones of Moulsecoomb (GP): My Lords, there was talk of the Government planning to open a heat pump factory, which sounded like an extremely good idea because at the moment we import them all. I am curious if that is going to happen. Would that not have been a better plan than opening a coal mine that produces coking coal that no one in the UK is going to use and which we will probably have trouble selling anyway?

Lord Callanan (Con): The noble Baroness knows how much I hate to disagree with her but as usual, of course, she is wrong. I am not going to get into the business of the Cumbria mine but of course there is a market for the coking coal; it is not for energy production. She is also wrong about heat pump manufacture. There are a number of heat pump manufacturers in the UK. There is a big ground-source manufacturer in Cornwall and air-source heat pump manufacturers in Scotland, but we need more of them. That is why we have an investment competition running whereby the Government will give grant aid to help more heat pump manufacturers to be installed into the UK.

Lord Geddes (Con): My Lords, I am at it again, as I was yesterday, on tidal power. Does my noble friend agree that tidal power is totally predictable and entirely independent of the vagaries of the weather? Will he do his best to maximise both the development and the implementation of tidal power?

Lord Callanan (Con): My noble friend is indeed passionate on this subject and raises it many times. It is an important contributor, as I said, in the latest CfD round that the noble Baroness, Lady Blake, referred to. For the first time ever, we allowed some CfD investments in tidal power.

Lord Alton of Liverpool (CB): My Lords, nuclear fusion has long been seen as the holy grail of clean energy technology. Given the breakthrough made in the United States this week, I ask what role the United Kingdom and its scientists have played in that. What hope does the Minister have for nuclear fusion in future?

Lord Callanan (Con): The noble Lord makes a very good point. The breakthrough announced by the Lawrence Livermore laboratory was indeed ground-breaking. It is supported by many scientists here in the UK. We have our own advanced investments and systems in Oxfordshire. I am told by the BEIS scientific adviser that the UK is very much in the premier league when it comes to fusion research. Clearly it is at an early stage at the moment and it will take a number of years to commercialise the technology and roll it out. It is not going to be an immediate solution but it certainly has tremendous potential for the future.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, on Sunday when I was passing Torness on an LNER train—it was freezing cold and there was no wind to turn the turbines—I thought how lucky we are to have nuclear energy in Scotland at the moment. However, if things go the way that the SNP wants, we will not have any in the future. Where will the UK Government have the courage to say, "As far as we are concerned, energy is a reserved area and therefore we are going to insist that we have nuclear power in Scotland as well as in England"?

Lord Callanan (Con): The noble Lord makes a good point about the importance of nuclear energy in the UK transmission mix. The irony of the SNP's plans is that, given that it is almost certainly not possible to run an entire distribution system purely from wind power, as the SNP is planning, it will have the benefit of being able to call on English nuclear power to back up the Scottish people in future. As always, England will want to help the Scottish people as much as we possibly can and free them from the vagaries of silly SNP green policies.

Biomass Strategy

Question

1.29 pm

Asked by ***Baroness Boycott***

To ask His Majesty's Government when they plan to publish their biomass strategy; whether it will take into account the time it takes for trees to sequester the carbon released from burning wood pellets; and what are the emissions associated with land use change in deforested areas.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government have committed to publishing a biomass strategy, due in quarter 2, 2023. The UK source of woody biomass for energy predominantly comes from managed forests, which are managed for conventional forestry products such as timber. Where biomass is sourced from forests, the land criteria include requirements around regeneration rates and sustainable harvesting in the sourcing regions, thereby ensuring that the carbon stock of the forest from which biomass is derived is not decreased.

Baroness Boycott (CB): I thank the Minister for the Answer. However, reports, most recently from "Panorama", have concluded that the pellets we are burning are not exclusively from waste wood, so we are actually causing deforestation of virgin forests. Natural Resources Canada states that, in a best-case scenario, biomass is worse for atmospheric CO_2 levels than coal for the first 85 years after use due to the time it takes to be recaptured by the trees. Therefore, biomass is not renewable in the timeframe we have to avert the worst consequences of climate change. I know that the Government are currently considering what to do post the subsidy agreements that run to 2027. Will they please remove the renewable classification biomass enjoys, and with it the billions of pounds in subsidies it receives from the taxpayer?

Lord Callanan (Con): As the noble Baroness is aware, the UK supports only biomass that complies with very strict sustainability criteria. Following the programme to which she refers, government officials engaged extensively with forestry experts and Canadian officials, and we are confident that wood pellet production in the region is sustainable and does not lead to destruction of forests in those regions.

Lord Forsyth of Drumlean (Con): My Lords, how can it possibly be in the interests of the environment to cut down trees in North America, then use energy to turn them into pellets, then put them on a ship powered by diesel to transfer them across the Atlantic, then land them on the west coast of this country and then transport them in a refrigerated container to Drax, and for the taxpayer and the consumer to pay for all this in the name of saving the planet?

Lord Callanan (Con): My noble friend has a direct way of putting these things, as always. As I said, there are very strict sustainability criteria that production is monitored against. What I would say in defence of this system is that they are not virgin trees; it is by-product from commercial harvesting. The wood, of course, is used for normal wood processes and the pellets are produced from the waste products associated with that.

Lord Rooker (Lab): Could the Minister say whether there is a difference with coppicing as opposed to pellets? I recall that back in 1999, when I was a MAFF Minister, I opened a school in Herefordshire where the fuelling system was a contract with, I think, eight local farmers who would coppice wood to fuel the boilers. What is the difference in the biomass rules for that, as opposed to the wood pellets?

Lord Callanan (Con): They are two different systems, but the noble Lord is essentially correct. As I said earlier, the UK supports only biomass which complies with strict sustainability criteria. Where that biomass is sourced from forests, the land criteria include requirements around regeneration rates and sustainable harvesting to ensure that the carbon stock of the forest from which the biomass is derived is not decreased.

Lord Hamilton of Epsom (Con): My Lords, will my noble friend look again at the question of growing crops to produce artificial fuel? That creates CO_2 all the way through the process, and when it is burned at the end. Surely, we should have an assessment of the amount of CO_2 that is used up doing this, compared with other fuels.

Lord Callanan (Con): My noble friend makes a good point and there is clearly sometimes a difference between crops that are used for fuel and those that could be used for food, and we always have to make sure that we get the sustainability balance right.

Lord Lennie (Lab): My Lords, when the Energy Prices Act was introduced, the Government said that dispatchable low-carbon technologies such as biomass were being considered as part of a policy designed to reduce the impact of higher gas prices on the energy market, but that higher input costs were the main drawback. Is there a timeline for this consideration and has any progress been made since this was said in October this year?

Lord Callanan (Con): I cannot give the noble Lord a precise timescale, but, of course, we always keep these matters under review and we will look at it very closely.

Baroness Willis of Summertown (CB): My Lords, all biocrops are low-density forms of energy and we are missing this point here. As a result, they have a significant land utilisation demand and impacts that are much wider than just the crops themselves. Can the Minister confirm that, in growing biomass for fuel, there will be no ancillary loss or impact on other natural capitals, in particular biodiversity, water and healthy soils?

Lord Callanan (Con): Most of the forests from which these supplies come are of course commercial forests. They are established for the purposes of growing wood for construction and other methods, and the pellets that are then produced are from waste products. But the noble Baroness is ultimately correct: we need to make sure that diversity is guaranteed, as well as the sustainability criteria.

Lord Teverson (LD): My Lords, one of the objectives of the Government under the Environment Act was to rationalise local government collection of waste, part of which is food waste. We have a real opportunity to collect that food waste and put it into anaerobic digestion, thereby having positive environmental biomass production of renewables. Where have the Government got on that? It seems that there is a complete pause and no action.

Lord Callanan (Con): I am afraid the noble Lord is completely wrong; we are acting on that. There are already food waste collections from many local authorities around the country. We have the green gas support scheme, which is rolling out support across the country for anaerobic digesters, many of which are using waste food. We await with interest the food waste strategy coming from Defra—I spoke to a Defra Minister about it the other day—which should be out early next year, to ensure that all local authorities are rolling out food waste collection. On his ultimate point, the noble Lord is correct that anaerobic digesters offer a fantastic opportunity for the production of green gas—but many already exist and are being rolled out in this country as we speak.

Lord Randall of Uxbridge (Con): My Lords, having heard my noble friend talking about where these wood pellets come from, if it was found that wood was being taken from primary forests rich in biodiversity to make those pellets, would he join me in condemning that practice?

Lord Callanan (Con): "Yes" is the short answer to my noble friend's question. We want to make sure that it comes not from proper indigenous forests but comes as a by-product from commercially managed forests. We need to be sure that it is environmentally sustainable and we have strict criteria that are monitored to ensure that that is the case.

Lord Watts (Lab): My Lords, following the earlier question from the noble Lord, Lord Forsyth, does the Government's assessment take into account the travel costs and the cost of bringing those materials to the UK?

Lord Callanan (Con): These are factors that are taken into consideration when the overall sustainability of the procedure is looked at. They are monitored by Ofgem to make sure that all the pellets that are sustained, both from UK forests for use in biomass boilers and so on in the UK and those that are imported, all have the same sustainability criteria.

Baroness McIntosh of Pickering (Con): Does my noble friend agree that it is more environmentally friendly and helpful to British farmers if we encourage the growth of fast-growing willow coppice and miscanthus to feed into biomass production?

Lord Callanan (Con): That is one potential source for biomass production; my noble friend is right in that respect. But, as I said, there is also the ultimate decision that we need to make about what we wish to use available agricultural land for. Should it be for food production, biofuel production or biomass? These are all things that will be taken into account in the strategy.

Baroness Young of Old Scone (Lab): Does the noble Lord recognise, in the context of his last answer, that the recently published report from the land use Select Committee says that we need a land-use framework for England in order to make decisions about where the most appropriate siting of different crops and energy generation materials should be? If that was in existence, it would become abundantly clear that biomass is probably not one of the best uses of our scarce land resource.

Lord Callanan (Con): I have not seen the report the noble Baroness refers to, but I will make sure to have a look at it.

Lord Cromwell (CB): Is the Minister concerned about the development of so-called "carbon capitalism", whereby investment trusts and UK and overseas corporates are buying up land to take advantage of commercial opportunities in the carbon credit space? I cite as an example that the price of land in Scotland has now risen by over 30%, and that a third of those sales are taking place off market.

Lord Callanan (Con): I am not aware of the factors that the noble Lord is referring to. It is the first time I have heard of "carbon capitalism", but I look forward to reading more about it.

NHS: Agency Doctors and Nurses

Question

1.39 pm

Asked by ***Baroness Merron***

To ask His Majesty's Government what assessment they have made of the reasons why this year's NHS spending on short-notice agency doctors and nurses is 20 per cent higher than the previous year.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): My Lords, demand for temporary staff supplied through staff banks and external agencies has increased. This is largely due to the increase in activity involved in our service recovery plans. Even taking account of recent increases, agency spend is still lower than in 2015-16 as a result of measures introduced to control spend. When adjusted for inflation, last year's agency spend reflects a 25% reduction compared to 2015-16.

Baroness Merron (Lab): My Lords, the shortage of NHS staff is unsustainable, as is the NHS paying up to £5,200 for a single doctor shift. This year, in addition to the £3 billion paid to agencies providing doctors and nurses at short notice, a further £6 billion was spent on bank staff when NHS staff were paid to do temporary shifts. What cost-benefit analysis has there been of this expenditure, compared with investing in recruitment, training and retention of the workforce? Does the Minister agree that it would have been much better if we had had, and actioned, the long-awaited and costed NHS and social care workforce plan?

Lord Markham (Con): I totally agree with the noble Baroness: it is always better to invest in recruitment and retention, and that is what we are doing. There is no cap on the number of nurse graduates, and we have more than 70,000 in training right now. During the last three years, we have increased the number of nurses by 32,000—well towards our target of 50,000—and the number of doctors has increased by 4,000 in the last year alone. At the same time, I welcome the long-term workforce plan. It is a crucial tool going forward.

Lord Stirrup (CB): My Lords, I have asked the Minister before about the NHS's plans to retain its clinical personnel. He has acknowledged the importance of the issue but there seems to be no real urgency attached to it. There is absolutely no good will among NHS personnel towards the NHS as an institution—those are not my words but the words of NHS staff. When is this crisis to be addressed with the urgency which is so clearly required?

Lord Markham (Con): I believe the urgency is there. This has been demonstrated more than anything by the measures in the Autumn Statement and by the long-term workforce plan, which will be reporting early in the new year and is what we all want. Commitments are being made to prioritise well-being, health, culture and leadership, and to operationalise this as per the 2020 NHS People Plan. Do we need to do more? Clearly. Is it a high priority? Yes.

Lord Allan of Hallam (LD): My Lords, the increase in agency staffing costs reflects the Government's failure to invest sufficiently in staff training and recruitment over the years. To what extent does the Minister believe that the change of course he has indicated—a staffing plan and increased investment—will reduce agency costs in 2023?

Lord Markham (Con): I think all of us in this House agree that these are long-term plans. Part of the increase in agency costs is also because we are trying to get more output and more activity. I am delighted that there are 70,000-plus nurses in training, but it takes a while for this to come through the pipeline. We are focused on making sure that we continue to invest in this pipeline. There is no cap on graduate or undergraduate places for nurses, and we will continue to invest.

Lord Hunt of Kings Heath (Lab): My Lords, I declare my interest as a member of the GMC. The Minister has referred to the forthcoming workforce plan. Can he assure me that it will actually put numbers on the future training of different professional staff, together with a commitment to funding these places?

Lord Markham (Con): Again, I will check, but my understanding is that fundamental to any plan is the number of new places needed and recruitment, both internally, through graduate schemes, and externally. Apprenticeships also provide an opportunity. I know we are not taking up all our apprenticeship value; we refund some of it back to the Treasury. There is clearly an opportunity here to get more people on the pathway to becoming a nurse, so that anyone from any walk of life can get on it.

Baroness Fraser of Craigmaddie (Con): My Lords, have the Government made any assessment of sickness absence rates among NHS staff and how that might be contributing to increased agency costs?

Lord Markham (Con): My noble friend is correct to bring this up; it has been an issue. I am glad to say that sickness absences at the moment are much closer to pre-pandemic levels, so I think we are coming down the other side of the curve, so to speak. But undoubtedly it has been an issue over the past year, when Covid has still been an issue, which has caused more absenteeism and so the use of more bank and agency staff.

Lord Watts (Lab): My Lords, the Government have changed the pension rules for doctors, creating an incentive for them to retire earlier. The Government are committed to looking at that issue, but they do not seem to be doing anything. When can we expect a change in that policy so we can retain our doctors?

Lord Markham (Con): The noble Lord is completely correct; we need to make sure that this is one of the key retention elements. There is also the issue of the hours doctors work: we know that, beyond a certain level, they find it uneconomic. A high priority is looking at what we can do on pension rules, or simply paying doctors the equivalent amounts as a straight salary, to make sure that we solve that problem.

Lord Brownlow of Shurlock Row (Con): My Lords, the Opposition target the abolition of a particular tax to raise funds to put into the NHS, but does my noble friend believe that is the silver bullet they purport it to be?

Lord Markham (Con): I thank my noble friend. I do not pretend to be an expert on tax, but my understanding is that the so-called non-dom tax does not end up increasing the revenue raised and would therefore have a detrimental impact on the economy.

Lord Scriven (LD): My Lords, the Minister is putting a lot on the success of the new workforce plan. Is part of the problem of gaps in staffing numbers that, until recently, the Government refused repeated requests for an NHS workforce plan?

Lord Markham (Con): I do not know, is the honest answer. All I can say is that we are doing it now, and I think we all welcome it as a good thing. That has not stopped us investing in new places, and we have increased the number of nurses by 32,000. So it is not as if we were not heavily involved in recruiting and retaining staff in the meantime, but it is great that we are now going to get it.

Baroness Bryan of Partick (Lab): My Lords, does the Minister think that he might have had a better chance of recruiting more nurses if there had not been a 20% drop in real-term wages over the past 10 years?

Lord Markham (Con): Clearly, salary is a very important part of all this, which is why we have always followed the recommendations of the independent pay review body, as Governments of all colours have done since 1984. Clearly, it is that body's job to look into all such issues. Going forward, I am sure that we will continue to support its findings and invest on the back of that.

Lord Kamall (Con): My Lords, a report from this House's Public Services Committee has suggested that demand will outstrip supply in the workforce due to the demographics of this country. It suggests that the Government should work closely with civil society and the private sector to make sure that we are delivering public services. One problem is that, often, the NHS does not work as well as it should with civil society and private partners. Can my noble friend go back to his department and find out what it and the NHS are doing to make sure they work in tandem with civil society and private providers, and can he comment on that today?

Lord Markham (Con): I thank my noble friend and agree that, in looking to recruit so many people, we need to consider every possible source. I mentioned the private sector earlier, and there are also apprenticeships. Noble Lords will remember that years ago, there were two nurse entry levels, one for graduates and the SEN scheme, which my mum was able to join, with a lower bar and training on the job. We need that sort of modular training approach, so that people can build

[Lord Markham]
up their qualifications as they go through the system, and we need to welcome people who are not graduates into the service. Those are all vital ways to get the numbers we need into the workforce.

Baroness Uddin (Non-Afl): My Lords, although we all acknowledge the acute shortage of nurses right across the services, there are particular issues with children's palliative care services. How do the Government intend to address this urgent priority?

Lord Markham (Con): We are trying to address every area. As I mentioned, in the past year alone there has been an increase of 9,000 in the number of nurses. We have to make sure that that increase goes to every area where it is needed, including children's palliative care.

1.50 pm

Sitting suspended.

Parliamentary Works Sponsor Body (Abolition) Regulations 2022

Motion to Approve

4.15 pm

Moved by ***Lord True***

That the draft Regulations laid before the House on 22 November be approved.

Relevant document: 21st Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 13 December.

Motion agreed.

Genetic Technology (Precision Breeding) Bill

Committee (2nd Day)

Relevant documents: 8th Report from the Constitution Committee and 19th Report from the Delegated Powers Committee

4.16 pm

Clause 3: Restrictions on release of precision bred organism in England

Amendment 20

Moved by ***Lord Winston***

20: Clause 3, page 3, line 35, at end insert—

"and unless the organism appears to be phenotypically healthy and has no defect likely to cause suffering."

Lord Winston (Lab): My Lords, I will speak to Amendments 20, 22 and 23 in this group, with reference to Amendment 21. I am afraid that, much as I dislike it, I have a difference of opinion with the Minister. I want to make it clear at the start that this is not in any case an attack on his probity. I think he is completely honourable and honest, and is trying to do the same job that I am: to protect the environment and make certain that we do not release organisms that might be harmful to the environment.

Noble Lords will remember that, when we finished on Monday night—it seems so long ago—unfortunately the Minister had to rush through a statement rather hurriedly and we did not complete our discussion of that statement. Since then, I have had a chance to go through the literature that I am concerned about.

The first thing to say very clearly is that, in spite of the assertions in the advice that the Minister has been given, those assertions are not correct. In fact, there is a serious issue around the introduction of foreign DNA into an organism using gene-editing technology, particularly CRISPR and particularly CRISPR-Cas9, which is the commonest one that has been used in plants.

Let me make it very clear that I do not in any way hold shame or blame toward the noble Lord, Lord Benyon. He is doing his absolute best in a very difficult area. As someone who has been practising genetics for over 40 years and doing modification of genes in various animal species, I find some of these concepts still complex myself. But from the publications on CRISPR technology—I will table a number of recently published papers, many of them not from Britain admittedly but from across the world—we can very clearly see that CRISPR leaves the organism vulnerable to the introduction of foreign technology. This has been particularly shown not only in the sort of animals I deal with, which are laboratory animals, but in the animals that we are most interested in in the Bill—farm animals, which are livestock.

There are a number of publications that I could quote from, but noble Lords will have to forgive me because, although my notes are written in large print, I had an injection in my eye today so I cannot really see what I am doing. However, I can see with pleasure the Minister across the Chamber, smiling at me. I am smiling at him too, because it is not sensible to have an aggressive argument on this; this is something that we have to come to agreement on because we both agree that this whole business is for the public good. There were relevant publications from Crispo et al. in 2015, Kim et al. in 2015, Tsai et al. in 2015, Wang X et al. in 2015, Carey in 2019, Zou in 2019, Musser in 2020, and Zuccaro in the last year or so. Zuccaro is particularly interesting, having been working in a field that I am interested in, the human embryo, but this is a model for all mammalian embryos. There is no fundamental difference between those embryos and what we are saying about humans.

Previous studies have found thousands of off-target mutations in gene-edited cells, embryos and animals. They raise the importance of investigating in-depth the gene-editing process and what it leaves behind. As the Bill stands at the present time, we would be at risk of releasing into the environment animals with changes in their genes which might be fundamentally different and in some ways damaging. For example—and this may sound ridiculous but I do not think it is at all—for the last two or three years, humans have been threatened by one of the most difficult viruses that we

have come across: the coronavirus. We know that the virus was transmitted through animals—pangolins, probably, through the bat. Having been transferred through animals, it then changed significantly and damaged human health. This is a genuine and understated serious threat to human health. I do not think that it is likely, but it is possible and, at the very least, we must consider this very seriously and do everything that we can concerning the risks involved with the technology.

As I described on Monday, there is no doubt that we might have problems with regard to making a herd that seems immune to one disease but, in consequence, is susceptible to another. That is seen very clearly in human health. For example, we know that, in places such as Sardinia and Cyprus, blood dyscrasia causes massive numbers of children to die, usually in their teens, from beta thalassemia. We could probably control this by gene therapy: we could change that gene to make people immune but, if we did so, they would then be vulnerable to another disease, malaria, which is likely to hit Sardinia with climate change and which kills over a million people a year.

There is a real issue around how, if we change the balance of nature with these gene-edited animals, we might do things which we cannot calculate with any proper basis. I suggest that I table those papers for the Minister to look at, but I will refer to one particularly significant paper, *Improvements in Gene Editing Technology: Boost Its Applications in Livestock*. It is entirely on his side. I have chosen it because it is by authors who, like the Minister—and me, to some extent—favour this sort of work in livestock.

I can leave this paper on the table, but I know I am not allowed to wave it—that is out of order in the House of Lords, but I am waving it anyway, because nobody is shouting "Order!" This paper is from a group of authors who are in favour of this technology, like we are, but who are also very concerned about the risks. They argue that more research needs to be done before we start to implement this, particularly in animals, in my case—I have insufficient knowledge about plant biology; I think I did S-level botany at school, but I was not a great botanist. I do not pretend to be a botanist, but I know more about animals, having worked with them for so long. I know that this is clearly something we can see in the mouse model we use, but also in another animal. I have chosen the pig, because it is one animal whose genes I have tried to change, using more conventional methods, and I know how unreliable that is. The same problems arise again and again.

Let me try to explain the difficulty biologically. One of the problems is that CRISPR-Cas9 and various other technologies, in order to make the genome or animal more vulnerable to change, have to cause a double-stranded split in the DNA—a so-called DSB. That is how we insert or change the DNA that then becomes attached. That was one of the reasons why, on Monday, I asked the Minister whether he was concerned about the use of radiation and CRISPR together. One of the ways that mutations occur in humans, as we know from examples such as Hiroshima, is that X-radiation and gamma radiation cause these cuts in the DNA, which later cause cancer and other genetic abnormalities. It improves the chances of CRISPR working, but it may also result in making not only the advantages but also the disadvantages more likely to occur.

I am saying with these amendments, in simple terms, that as responsible humans, politicians, scientists and revisers, we have to argue the delay of this technology until we have more data. This group of amendments clearly suggest to the Government that we would be derelict in our duty if we did not make certain that the animals we are releasing into the environment have the genome that we think they have but which we have not checked. My argument is that, to do this, we have to go through the laborious process of sequencing the genome of these animals before they are introduced. We also have to look at their phenotype. Of course, their phenotype may look normal, but underneath there might be things that are seriously threatening to the planet. That is our responsibility.

The noble Lord is absolutely right—and I am grateful to him for saying this—that this is one area that we really understand in Britain. After all, we were ahead of the game when it came to sequencing the human genome and on the structure of genes. For example, Watson and Crick were at Cambridge. We have to recognise that this is a long tradition in our science. We can go on talking about Argentina, and the Argentinians have a very good reason for wanting to do this, as the noble Lord implied; not unreasonably, they want the commercial advantages. Correct me if I am wrong; there have certainly been some Nobel Prize winners from Argentina, but none in this field of molecular biology, unlike Watson and Crick, which is applicable. We have to recognise that this is something we work on very seriously in British universities, in a way that is not easily done in many other places. There is a great deal of expertise here.

Lord Krebs (CB): I thank the noble Lord, Lord Winston, for giving way. I also thank him for sending me a paper by Claire Robinson which makes many of the points he has just alluded to. I would like to ask the noble Lord a question. I offered the suggestion on Monday evening that the criterion for describing an organism as precision bred in terms of the Bill should not be that any exogenous DNA—which is what the noble Lord is talking about—should not code for a protein. That is what the Bill says in Clause 1(6). I offered an alternative, more stringent, criterion: that it should not have any effect on the phenotype. That is more stringent than saying that it should not code for protein because exogenous DNA could work on the phenotype in ways other than coding protein; for example, I mentioned gene suppression.

4.30 pm

I think the noble Lord suggested a third criterion: that the whole genome of any organism should be sequenced before it is then released into the environment as a precision-bred organism. That, to me, also carries a difficulty because there could have been spontaneous mutations during the process of precision breeding which have nothing to do with precision breeding per se; it is just the way the nucleic acid changes. Therefore, one has to ask with whole genome sequencing: what would you actually be looking for? What would be

[Lord Krebs]
your reference genome? I am just wondering whether my proposition, of no visible effect on the phenotype, would be a suitable halfway house.

Lord Winston (Lab): I am very grateful to the noble Lord, Lord Krebs. As he knows, I have genuine respect for him, and rightly so; he is very distinguished in biology, and no one doubts that for a moment. His contribution has been, and continues to be, particularly important, as is his interest in the environment and its protection.

But the phenotype can mean many things. The animals might be, apparently, phenotypically normal. However, for example, plants might turn out to produce as a result of gene editing some allergen—or possibly some toxin—that is completely unexpected but occurs in plants. Both of these could be damaging to human health even though the phenotype of that organism is normal. That is essentially the problem. It still means that that we have to be looking, as far as we can, for data. This is the key thing that we both want to see—I know that the noble Lord, Lord Krebs, is in favour of this because we have talked many times in different environments, particularly in the Science and Technology Select Committee, about how important it is.

We have the ability to amass that data. The advantage of these amendments would be that this country would be supreme in doing this really well. We would be able to build up a databank of extraordinary importance. I do not think that answers his question in any way as, of course, there may be bits of DNA we miss. If you are doing CRISPR in a laboratory on a farm and are not using stringent precautions as we try to do in a human laboratory—in laboratory conditions under the Animals (Scientific Procedures) Act, for example, with a licence for the premises and person—you run a risk. For example, somebody coughing 30 metres away from a dish where CRISPR is being done could introduce human DNA. That human DNA would be completely random—off the skin or off the cough. It is a real issue which has happened. It happened when we were trying to do our original work deciding whether somebody had a fatal genetic defect way back in 1988. Therefore, we had to be very scrupulous.

Again, the same problem arises; you could pick up those markers and see not what you would expect to see in a genome. I do not think it fundamentally changes the risk of introducing either organisms or bits—we talked about plasmids and other bits as well—of DNA which might arise. They are not simple; some of these are quite big chunks which can go in. Once you have taken the double-stranded break—which is what happens during CRISPR—the DNA is vulnerable to the introduction of foreign DNA that you do not expect or want and might express. That is one of the problems.

Off-target mutations are another issue entirely, which is very clear from the literature. I spent a long time reading last night before going to bed to make certain I was sure of this. There are dozens of publications looking at mammalian DNA which show that off-target mutations, which are unwanted and may cover abnormal effects, would result in a fairly normal looking animal producing something we would not expect.

That brings me to the next part of these amendments. I am afraid this is difficult with farm animals, because we are looking at long gestation periods. It is not like mice. With mice, we can do this within a month; in two months, we get two generations; in three months, we probably get three, more or less, because they have to get to sexual maturity. With mouse work, you can have several generations and you can get the same results. Actually, what we have to see is whether what happens with mice happens with farm animals, which seems highly probable. Their progeny, of course, are what is key to the success of this technology, ultimately—whether or not you can safely produce a herd. That is a fundamental difficulty with the Bill as it stands.

This is not necessarily a bad Bill. I hope that we can help. In fact the noble Lord, Lord Krebs, and I have discussed this privately. Neither of us wants to delay useful technology that might help at a critical stage in our development as nations when we are looking at a big threat to the planet, but we could actually make that threat worse if we got this wrong. That is why I tabled Amendments 20, 22 and 23. I beg to move.

Baroness Parminter (LD): My Lords, I rise with some trepidation to follow such an expert, but there is a reason why I am speaking on this: I have six amendments in the group. Three of them deal with one issue that follows on quite neatly from what the noble Lord, Lord Winston, has just been talking about: to ensure that the Bill deals with the necessity of data banks, storing the necessary information about the clinical outcomes for both the animals used in the gene editing and their progeny. I will therefore speak first to my Amendments 24, 44 and 45, which all deal—probably in quite a clumsy way, but nevertheless a way to put this on the face of the Bill—with a requirement for a continuing record of clinical outcomes for the adverse and other effects on both the animals used by gene editing and their progeny. I am grateful for the support that I have had in tabling this amendment from the British Veterinary Association, particularly Professor Madeleine Campbell, who has been invaluable.

I draw noble Lords' attention to the parallel piece of legislation, the Human Fertilisation and Embryology Act, in which there is a requirement for the surrender of ongoing records containing the information about the impacts—both positive and adverse outcomes—on those individuals used under the terms of that Act. Indeed, there are stringent requirements in the Bill, subsequently set out in regulations, that make it clear that those have to be ongoing records for 50 years, because of the potential length of impacts on the progeny of the people involved in those medical interventions.

Given the importance of this new field of gene editing, we should ask for a similar requirement—certainly mentioning on the face of the Bill that an application to undertake gene editing must include plans to submit to the Secretary of State a continuing record of those outcomes. In the case that I just mentioned, the Secretary of State can make that information available for medical research. I argue that there needs to be a similar requirement for the Secretary of State to do so in this case. That is why, in my Amendment 24, I use the words,

"supply such records and other required information to the Secretary of State".

This is specifically on that point, so that the information can be made available publicly for further medical research by veterinarians and others, to ensure that we get the benefits for the welfare of future animals.

I do not want to say too much more at this stage, because I have a number of other amendments, but I thank the noble Baroness, Lady Hayman, for supporting me on this. Sadly, the noble Lord, Lord Trees, is not able to be here today, but he has indicated to me that he is supportive of such an amendment, and if I were to bring it back on Report he would indeed support it.

I therefore move on swiftly, so as not to detain the Committee too long, to my Amendment 50, which deals with the equally critical issue of the animal welfare advisory body. This is somewhat scantily referred to in Clause 22, which gives the Government the power under the negative procedure to say through regulations what this advisory body will do. This is a fundamentally important body, particularly for those of us concerned about the use of animals in gene editing. I seek to set out in this amendment some clarity about the role and membership of the body. I have tried to include experts beyond just those who have expertise in gene editing, to ensure that it is transparent and has some purchase with the general public with the inclusion of a lay member, and to ensure that it has sufficient budget and resources to do its job.

I was pleased that the Constitution Committee raised significant concerns about the scantiness of the information available about the animal welfare body and the need for greater transparency on this front. During the passage of the then Animal Welfare (Sentience) Bill, there was a similar degree of scantiness—I think that is the right word—about the committee that was meant to oversee that area. This House was able to persuade the Government of the case for putting more information about the sentience committee in that Bill. There is a parallel case for doing so here. It would give Members of this House, and, more importantly, the general public, far greater confidence about this important body. Again, I am grateful to the noble Baroness, Lady Jones of Whitchurch, for supporting me with this issue.

I move swiftly to my remaining two amendments, which follow on. Amendment 36 deals with the scope of the welfare advisory body. At the moment, the scope seems to suggest that this body can focus only on issues that have been raised by the notifier on the potential impacts on the welfare of the animals, not that it can go beyond those parameters to look at the wider risks that might reasonably be expected to be possible issues that might come up for the animals and their future progeny. With Amendment 36, I seek to say that the scope of the welfare advisory body's concern should be broadened so that it can focus on issues that would "reasonably be expected", rather than just on the issues that the notifier has given.

I am sorry for detaining the Committee for so long. As a follow-on to that amendment, my final amendment again picks up the point about the issues that ought reasonably to be thought about in terms of their effect on animals. I have noted those areas that ought to be in the Bill for the Secretary of State to think about, given that they are commonly adverse effects from selective breeding. It is therefore a reasonable expectation that this would be the case in gene editing as well. However, I make it clear that I am not proposing that the amendment should limit the scope of the factors; they are just some of the ones that should be included. It does not preclude the Secretary of State's right to go broader than that. The Delegated Powers and Regulatory Reform Committee was critical of this issue—how loose Clause 25 was in leaving matters to regulation that should be in the Bill. With that, I will sit down and be quiet.

Baroness Hayman of Ullock (Lab): I have a number of amendments about the animal welfare advisory body, so it probably makes sense if I introduce mine next, if noble Lords are happy with that. I thank the noble Baroness, Lady Parminter, for that introduction. I was very pleased to support her amendments.

I have a number of amendments in this group relating to Clause 12, which lays out details on the reports that the welfare advisory body will be required to make in its consideration of an application for a precision-bred animal marketing authorisation. It states that the welfare advisory body will have to determine whether the notifier, in its animal welfare declaration, has paid regard to the risks to an animal due to a precision-bred trait and whether the notifier has taken "reasonable steps" to assess those risks. That is fine, but our concern is that it does not have enough detail. That is why I tabled my amendments.

4.45 pm

We are trying to set out some of the processes and frameworks that we think the Government should be setting out in the Bill. My Amendment 34 would require the welfare advisory body to undertake its own assessment of the potential impact of a precision-bred trait on the health and welfare of an animal and its qualifying progeny. Part of the problem here is that without knowing much about what the body will be and what resources are going to be available to it, there is a concern that all it is doing is taking a proposal written by the applicant and making a judgment on the basis of what it has just been told. So perhaps we should be checking some of the evidence that has been presented to it, rather than just taking it in good faith. Our concern is that some people, understandably, will want to get their application through, so it is going to be presented in the best possible light; we believe that the new body should be able to interrogate that thoroughly and properly. We have to ask whether we can be entirely sure that any evidence presented to the committee can be taken at face value. If we did want to interrogate it more thoroughly, how do we do that? The Bill does not answer that question, so it is important that we draw attention to that.

My Amendment 37 requires the advisory body to assess the welfare impact on animals where a precision-bred trait is developed with the aim of achieving fast growth, high yields or other increases in productivity. We have heard in previous debates in this Committee about traditional selective breeding producing animals that are highly efficient and effective in terms of food production, but there have been concerns about the welfare characteristics of some animals resulting from this. So the question is, if we can take this further, how

[Baroness Hayman of Ullock]
far do we go? We think it reasonable that the body be able to assess welfare impacts as well, and it is not clear in the Bill how this would be part of the process. I am sure the Minister will reassure your Lordships that safeguards are in place that will allow that to happen, but we think it would be better if that was clear in the Bill itself. Amendments 36 and 38 add to that by requiring the welfare advisory body to consider welfare impacts on breeding stock.

Through these amendments we are trying to draw attention to any potentially unforeseen and possibly unintended consequences, which we think need to be addressed properly through the way the body is set up. The welfare advisory body should be able to consider direct and indirect, and intended and unintended impacts in all circumstances. Compassion in World Farming produced a very good briefing on this issue which I am sure noble Lords have seen; we should take its concerns very seriously. It highlighted that the Bill considers the impacts on the health and welfare of only the precision-bred animal and its progeny, arguing that the experience of selective breeding shows that altering an animal's traits might have an unexpected impact on the health and welfare of the breeding stocks that produce future generations. In its view, we should be looking at how we safeguard those too.

In addition, many of the effects of selective breeding have been unintended. We have heard about this previously so I will not go into any detail, but what we are saying, as has been borne out by the Nuffield Council on Bioethics, is that the system we have created through traditional selective breeding poses a range of problems and challenges. This technology could exacerbate those issues and therefore needs to be looked at extremely carefully.

Clause 13 deals with precision-bred animal marketing authorisation. We believe the Bill could be amended to tidy that up, so we have tabled Amendment 39, which specifies that a Secretary of State can issue precision-bred marketing authorisation only if they are satisfied that there will be no adverse health or welfare impacts on the animal.

Finally, I hope the Minister has listened very carefully to my noble friend Lord Winston, and that he and his officials will take the time to look at the concerns he has raised.

Lord Cameron of Dillington (CB): My Lords, my Amendments 35 and 40 follow on neatly from the remarks of the noble Baroness, Lady Hayman. As I mentioned at Second Reading, there is no doubt that the gene editing of animals will allow us to do some real good in the animal kingdom, in a way that would otherwise take decades of trial and error, through random mutations and with hundreds of field experiments having to be eliminated. Equally, it is just possible that some breeders might see this as an opportunity to breed animals that can better tolerate the cheap and inhumane conditions these breeders might see as a shortcut to greater profit. In my view, it goes without saying that no real farmers think like this.

There is no reason to suppose that gene editing should lead to bad breeding more than the random mutations that have gone before. However, as I said at Second Reading, if we are making it easier to make changes in breeding practices, let us take this opportunity to ensure that we promote only the best traits and that our animals and their progeny do not suffer in any way as a result of either them or their descendants being bred to survive poor husbandry.

The same applies to companion animals. We do not, for example, have a very good record on what we have done to the wolf: breeding ever smaller dogs; dogs that can hardly breathe because of their squashed noses; dogs whose eyes sometimes fall out of their sockets; and dogs who are bred for their bad tempers and fighting ability. All are not good examples, which, to my mind, we can well do without.

So we want to make sure that this welfare advisory body, whoever it may be, has specific responsibilities to examine the future quality of life of any relevant animal and its future progeny in the long term—both in the home and on the farm—and not to issue a licence if there is any risk at all that the genetic changes being proposed could result in future discomfort or distress to the relevant animal or its progeny. I hope that my two amendments, ensuring the broadening of the remit of the welfare advisory body on the face of the Bill, will be sufficient to prevent the possibility of a blinkered approach by this so-called welfare advisory body.

While I am on my feet, I want to touch on Amendment 50 in the name of the noble Baronesses, Lady Parminter and Lady Jones. It very much goes along with my thinking, because it seems to me that the clauses relating to the treatment and breeding of animals do not aspire to be effective legislation. The noble Baroness, Lady Parminter, used the word "scanty" or "scantiness"; "wishy-washy" was the adjective that came to my mind. In particular, the make-up and role of this welfare advisory body leave a lot to be desired. There are no real details as to who might be on it, what its budget might be or the full extent of its powers.

In thanking the noble Baronesses, I hope that, even if he does not like the details of this amendment, the Minister will agree to meet a few of us before Report to thrash out some sort of government commitment to getting more detail about this welfare advisory body in the Bill.

Lord Winston (Lab): Before the noble Lord sits down after his useful contribution on animal health, I want to ask him this: does he agree that one of the problems with many animals is that, in the same species, you often have some animals that are docile and happy with their environment and some that are quite aggressive and difficult to manage? That is one of the problems with simply having regard to the phenotype of the animal—how it looks and so on. These things are sometimes quite difficult to gauge. It seems probable to me—this is almost certainly true in human genetics—that the temperament of an animal is part of what the noble Lord is talking about and is therefore one of the issues we must take into account when considering the effects of the Bill. I do not know whether the noble Lord wishes to comment on that.

Lord Cameron of Dillington (CB): The comment I would make is that I am asking for long-term surveillance of the results of gene editing, in the same way that we

should have had long-term surveillance of the random mutations in the ordinary, traditional basic breeding that goes on at the moment.

To pick up on what the noble Lord seemed to be hinting at a few minutes ago in some of his remarks, I do not think anyone is suggesting that any gene editing goes on in any farming environment. No gene editing is going to go on except in a laboratory under really strict conditions, as I see it. If you talk to the gene editors and breeders who are already doing this sort of science, they will tell you that no animal is released from a laboratory or from laboratory conditions for at least two or three generations down the line before it goes on a farm. I noted what the noble Lord said about that, and I do not think there is a danger of someone coughing 50 yards away, as he mentioned, on a farm—but maybe that happens in a laboratory as well.

Lord Winston (Lab): I wish that were true of human in vitro fertilisation sometimes—although of course the HFEA as a regulatory authority has done a great deal to improve that. Early on, there were people who used to boast about being able to do in vitro fertilisation in a broom cupboard. That is quite an interesting issue.

Lord Rooker (Lab): My Lords, I shall say a few words about Amendment 54 in my name. Basically, all the amendments in my name are a result of the report on the Bill from the Delegated Powers and Regulatory Reform Committee. Amendment 54 relates to the fact that in Clause 25(1), there is a power to

"prescribe circumstances in which the health or welfare of a relevant animal … is … to be regarded … as being adversely affected by any precision bred trait."

The amendment questions what "adversely affected" is all about, because the Bill is not clear. Clauses 11 and 15 use this phrase when the applicant is applying to the Secretary of State and the Secretary of State can make the decisions.

The report on the Bill from the Delegated Powers Committee accepts that the affirmative procedure is involved and the memorandum provides the justification for the power of the Secretary of State to decide whether an animal is

"adversely affected by any precision bred trait."

But the committee called the memorandum

"vague and inadequate. Where the Government propose that an important term used in a Bill is not to be defined in the Bill itself but is instead to be defined subsequently in ministerial regulations, we expect a convincing justification for this. In our view, what is meant by the health or welfare of an animal being 'adversely affected by precision bred traits' for the purposes of the Bill is not a 'technical issue'—and the Government themselves acknowledge this in the Memorandum."

In short, the committee's report states in paragraph 29 that

"defining the circumstances in which the health or welfare of an animal is to be regarded as 'adversely affected by any precision bred trait' for the purposes of the Bill is significant in policy terms and is a matter of public interest; it is therefore important that any such definition is subject to an appropriate level of parliamentary scrutiny; leaving the definition entirely to ministerial regulations (albeit subject to the affirmative procedure) therefore demands a convincing justification; the Government have failed to provide this; and accordingly, unless the Minister can provide the House with a convincing justification for it, the power in clause 25(1) is inappropriate."

This amendment gives the Minister an opportunity to tell us what is meant by

"adversely affected by any precision bred trait."

It must not be kept a secret. It has got to be open and transparent so that people understand it.

Baroness Jones of Whitchurch (Lab): My Lords, I will rise very briefly because I have added my name to Amendments 50 and 87. I very much support the comments that have already been made by the noble Baroness, Lady Parminter, and my noble friend Lady Hayman, in proposing those amendments. I do think that—this has been a bit of a running theme, really—the lack of information about the composition and functions of the welfare advisory committee, which was flagged up at Second Reading and has again been flagged up quite widely today, is important. It is also important for us to really understand how the functions of that body will relate to other committees that are already in existence or envisaged in other bits of legislation. They will not stand alone in isolation: we need to know how they will interrelate.

5 pm

We have made it clear that the measures relating to the animal welfare elements of the Bill are simply not well developed. As we heard in the previous debate on Monday, a number of us felt that on that basis they should be taken out of the Bill altogether until more detail was available. But, moving on from that finite position, we are now trying to make more constructive proposals about alternative ways of addressing this.

Amendment 50, which is in the name of the noble Baroness, Lady Parminter, focuses on the composition of the welfare advisory body itself. As the Bill stands, given that there is very little information, the functions of the welfare advisory committee could go to any number of existing welfare bodies, or indeed to one set up for this purpose. There is a proposal that the functions could be absorbed by the Animal Sentience Committee. In the Commons debate in July, the Minister reported:

"Applications to the committee have now closed … We very much hope to have the committee up and running by the end of this year."—[*Official Report*, Commons, 7/7/22; cols. 261-62.]

So I am genuinely interested to know from the Minister whether he could update us on this. Is this committee in existence now, and is it being prepared to take on these duties? Six months have passed, so presumably the Government's thinking has become more advanced on that.

So far, we have had very little reassurance about the expertise or competence of those that the Secretary of State is thinking of appointing to this role. But if they are there, and are people that we trust, we may take a different view. The amendment of the noble Baroness, Lady Parminter, makes it clear that we expect members of the committee to have a broad range of backgrounds and knowledge, which would enable them to come to a full and rounded view of the welfare implications of their decision. It also, as she said, provides for a lay member. I do think that that is important, because a lot of this discussion, as we have said before, is about public reassurance, and having a lay member there will

[Baroness Jones of Whitchurch]
provide some of that reassurance. It will also reassure the public that any decisions are not based on a narrow set of interests.

I only say this in relation to the other committee that we have referenced several times now—the ACRE committee. That committee is, I fully acknowledge, made up of people with a particular scientific expertise in their field, but six out of the seven scientists on the board of ACRE have links to commercial companies as well, and three of them quote Syngenta as an interest. My point is that we do not want to replicate this, or have a different body where there are those potential conflicts of interest that could cause members of the public to perhaps not have as much confidence in the committee's decision-making as they should. I am sure that those people mean well and that they have scientific knowledge, but they also have to operate on an independent basis.

I think that my noble friend Lady Hayman has made the case very well for Amendment 87. It just makes it clear that the commencement date should not be enacted until we do understand more about the welfare advisory committee. As she says, it needs to have a remit which goes beyond the specifics and is able to deal with the direct and indirect impacts, and also unforeseen consequences —so, again, her arguments and the amendment are well made.

Finally, I will pick up on the masterclass from my noble friend Lord Winston. I would not even begin to try and argue with him; I sit in awe of everything that he is saying. I do hope that the Minister will meet him and talk some of these things through, because I do think that he has genuine expertise that he can share which will improve the substance of the Bill. I hope that the Minister will work with him on that basis.

I will pick up on the discussion about whether the research was taking place in a farmyard or a broom cupboard. I did note that Amendment 72A, the latest amendment from my noble friend Lord Winston, puts a specific requirement on participants in the research to have the appropriate scientific qualifications before they go anywhere near a petri dish. It would be reassuring to know that those people will have that expertise. I thought that was a helpful amendment as well.

Baroness Bennett of Manor Castle (GP): My Lords, we have already had a full, detailed and rich explanation of this rather large and very important group. I will make a couple of short points.

I would not presume to seek to add anything to the master class we had from the noble Lord, Lord Winston, covering his early amendments in this group. All I would suggest is to cross-reference; this is a debate we started on Monday, and I think it would be useful if we looked at the two debates together, because they address different parts of the Bill but the same crucial issue of exogenous DNA.

As for the broom cupboard or farmyard question, just because a technology is widely available—and the reality is that a lot of this technology is now becoming widely available and relatively cheap—does not mean it should be used widely and by people in broom cupboards, for example.

The amendment from the noble Baroness, Lady Parminter, about appropriate records is crucial. As the noble Baroness was speaking, I was thinking about the recent, grave concern about large amounts of peer-reviewed research, for which a condition of publication from the journals is that the data and the raw data have to be deposited in places where people have access to it. The data is there, but when people go and look for it, they find it is not available. If people cannot get access to that raw data, there are immediately grave concerns about the final conclusion being presented without that data. So it is crucial that it is available.

The noble Baroness, Lady Hayman, spoke about the animal welfare advisory body. The amendment here says that the body should rely not just on the evidence presented to it but think independently about what other problems might arise. In other contexts, we have been talking about the green revolution and the problems it has caused, and the state of our soils, water and health now. We have seen what happens when commercial interests are able to set the direction in which our agriculture and science go. It has got us to the point we are at today. That critical, independent assessment is crucial.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I am grateful for what has been a fascinating debate. I am conscious that there is in this Room a fellow of the Academy of Medical Sciences, who is also a fellow of the Royal College of Physicians, and the Royal College of Obstetricians and Gynaecologists, and others who are fellows of the Royal Society and winners of the Frink Medal—and that is just two of them—and that my attempt at a biology A-level sits me down at the other end of the spectrum. I will endeavour to answer the points that were raised.

The noble Lord, Lord Winston, made an important contribution to this debate. First, I say to him that the references to CRISPR Cas-9 are not relevant to this legislation. I know that he knows this, but he makes an analogy to that. Important though it is, it is specifically outside this legislation.

Independent scientific advice from ACRE, the Advisory Committee on Releases to the Environment, is that precision-bred organisms pose no greater risk to the environment and health than traditionally bred organisms. That advice is supported by the Royal Society, the Royal Society of Biology and the Roslin Institute. Professor Lovell-Badge from the Crick Institute reminded us that:

> "Generally, on the risk of a random mutation versus a genome-edited one, you are actually better off with a genome-edited one because you know what you are doing."—[*Official Report*, Commons, Genetic Technology (Precision Breeding) Bill Committee, 28/6/22; col. 37.]

This was supported by Professor Houston, director of innovation at Benchmark Genetics, who told us that it is now getting very good data from research experiments showing that off-target effects are very rare. In summary, our advice has been that there is no increased risk to health and the environment.

My commitment today is absolutely to study the papers that the noble Lord mentioned and to assure the Committee, including the noble Lord, Lord Cameron,

who made a very important intervention, that we would be happy to meet. I repeat that invitation; some noble Lords have already met me, the Bill team and others who are advising us to make sure that we are addressing their concerns and that we reflect that in any changes that we want to see to make sure that this works.

In my response to the amendments in group 8 I will cover our thinking on the provisions for release into the environment and the marketing of precision-bred animals, including animal marketing authorisations. I will start with the amendments on the interplay between this Bill and the Animals (Scientific Procedures) Act 1986, commonly known as ASPA.

I reassure noble Lords that ASPA will apply during the first stages of developing a breeding line using precision-breeding techniques in animals. ASPA rightly places rigorous requirements on the use of animals in scientific procedures, including precision breeding. ASPA requires that animals may be used in science only where there are no alternatives, where the number of animals used is the minimum needed to achieve the scientific benefit, and where the potential harm to animals is limited to that needed to achieve that benefit. I know that they are the values and priorities that the noble Lord, Lord Winston, will have operated under through many decades of research.

We will of course continue to work closely with the Home Office, which regulates these matters, as we develop guidance on this issue. As I said on Monday, we have also commissioned Scotland's Rural College to carry out research which will provide further information on how breeding lines are developed using precision breeding, including the stages which would be covered by ASPA and this legislation. This research is due to complete next summer and will be important in helping us produce guidance outlining when and how these two pieces of legislation will apply in the process of placing a precision-bred animal on the market. I reiterate what I said on Monday: our priority is to develop these new technologies in plants first and then, as we get the structure, framework and architecture right, we can proceed with animals.

In relation to Amendments 23 and 72A, I reiterate that ASPA licences will be needed for scientific procedures for precision breeding in animals, as defined in ASPA. Under ASPA, three licences are required: a personal licence for each person carrying out procedures on animals, a project licence for the programme of work, and an establishment licence for the place at which the work is carried out. I hope that addresses the concerns about broom cupboards—we want to make sure that this is taking place in registered, agreed, regulated premises.

Furthermore, the Bill will not make changes to the way precision-bred animals are regulated under the existing Genetically Modified Organisms (Contained Use) Regulations. This means, among other things, that facilities where precision breeding takes place must be registered with the Health and Safety Executive and comply with the requirements to apply appropriate containment and control measures. Both of these regimes work effectively to ensure precision breeding is conducted in a known premises or laboratory, under suitably regulated conditions.

I turn now to Amendments 20 and 22. Clause 3 applies to the release of plants and animals which will be primarily for research purposes. The ASPA regime already works effectively to protect animals used in science and research, so although I understand the intention, I do not think it would be appropriate to insert this further requirement here. Furthermore, developers will already be required to submit a release notice to Defra confirming that the "founder" organism they intend to release for research trials meets the criteria set out in the Bill. They will have generated genomic data in order to confirm that this is the case. However, requiring the information set out in the amendment, including epigenetic data, would be disproportionate.

5.15 pm

I turn to Amendments 34, 35, 36, 38, 50 and 87, particularly on the points raised by the noble Baroness, Lady Parminter. These amendments are in relation to the welfare advisory body. I appreciate the concerns and reassure noble Lords that the powers in these clauses already allow the welfare advisory body to carry out proper assessment and report the results to the Secretary of State. Clause 12 sets out that the advisory body's report must consider whether the notifier has taken reasonable steps to identify the animal's precision-bred traits, and the risks to the health or welfare of the animal or its qualifying progeny that could reasonably be expected to result from those traits. The Bill enables the advisory body to request further information from the notifier.

Moreover, if the welfare advisory body considers that the notifier has not made an appropriate assessment, this would be reflected in its report to the Secretary of State, who can reject the application. We consider that this provides the right balance, ensuring that the Secretary of State has the necessary information to assess a marketing application without long delays and unnecessary duplication.

I will now speak to the form and function of the welfare advisory body. Clause 22 will ensure that we can designate the most suitable body to this vital role. As noble Lords will know, we intend to bring the provisions of the Bill concerning precision-bred animals into force once the regulatory system to safeguard animal welfare is established. The power in Clause 22(3) provides the flexibility to use whatever committee or other public body is most suited to the role when the time comes, or to create a new one if needed. I repeat: a new one may be created if needed. This gives future Governments the ability to reflect this area of fast-moving technological change.

Clause 22(4) establishes that the welfare advisory body will be a public body and therefore subject to the rules, principles and scrutiny which apply to public bodies generally. That addresses some of the comments of the noble Baroness, Lady Jones; I will come on to some of her other concerns in a minute. The members of the welfare advisory body will have sufficient scientific experience on the health and welfare of animals to be able to assess whether the notifier has correctly identified the precision-bred traits and the health and welfare risks.

The amendment suggests placing an additional function on the welfare advisory body in the Bill. I think that goes substantially beyond its core role of providing

[Lord Benyon]
independent scientific advice on individual animal welfare declarations, and would require it to take on a role in policy and regulation which properly belongs to the Secretary of State. The amendment would, in effect, give the welfare advisory body the power to require the Secretary of State to set aside regulations that the Secretary of State had already made and had been scrutinised by Parliament.

The Bill's powers will enable the Secretary of State to appoint an existing committee to this new role or, as I say, to create a new one if needed. Defra already has access to independent expertise on animal welfare, principally through the Animal Welfare Committee. We have been engaging with that committee and other expert bodies as the Bill has developed. The Animal Welfare Committee is also represented on the Scotland's Rural College project steering group.

The noble Baroness, Lady Jones, asked about the sentience committee. As the Government explained when we took what is now the Animal Welfare (Sentience) Act through—it received Royal Assent in April—it required us to get actively working to establish the animal sentience committee. I am pleased to say that the chair, Michael Seals, has already been appointed. He is well known to Defra and has proved himself to be a very good adviser. We expect it to be some years before precision-bred animals are brought to market, so de facto the animal sentience committee will be established for more than 12 months prior to the first precision-bred animals coming on to the market, which addresses points in other parts of our debates today.

I turn now to Amendments 37, 39, 40, 54 and 55, which noble Lords have tabled in relation to the technical details on which the animal welfare declaration should be based. The Bill is intended to work alongside the existing animal welfare legislation to enable responsible innovation and protect animal welfare. Let me reassure noble Lords that the Government share the public's high regard for animal welfare. We have set out our ambitious reform agenda in the action plan for animal welfare. As part of our plans for future farming, we launched the animal health and welfare pathway this year and will push forward to support continued improvement in farm animal health and welfare.

I will address the points made by the noble Baroness, Lady Hayman. While this Bill is not the place to address the conditions in which animals are kept, I remind noble Lords that animals in England are already protected by the Animal Welfare Act 2006, as well as by more specific requirements for farmed animals in the Welfare of Farmed Animals (England) Regulations 2007. Alongside these regulations, there are also statutory welfare codes for the main kept species. I raise this, more perhaps in response to some points made by the noble Baroness, Lady Bennett, and others when we were talking about this on Monday, to address the fear that this might be some sort of Trojan horse to allow overstocking or densities of animals. Issues such as stocking densities of farmed livestock are, as I say, regulated in legislation and in regulation. These include detailed requirements for the use of enriched cages for laying hens, farrowing crates for pigs, and pens for calves. The Bill is very much intended to go alongside existing animal health and welfare legislation. Keepers of precision-bred animals will be subject to the same legislative requirements concerning protecting and promoting good welfare as those of traditionally bred animals.

Moving forward with this legislation, we recognise that it is important to balance innovation with ensuring the introduction of appropriate safeguards to protect the welfare of precision-bred animals and their qualifying progeny. To set out the parameters in more detail in the Bill would limit the scope of this development and could prevent the implementation of the most appropriate, detailed measures, as developed through collaborative work with technical experts. Further, the power in Clause 25 allows us to set out in regulations what constitutes an adverse effect on health or welfare, including any parameters needed for assessing this. This could include consideration of any known health and welfare issues in selectively bred animals.

As mentioned before, the research we have commissioned from Scotland's Rural College will help us to develop the criteria for assessment and evidence that must support the notifier's application, which the welfare advisory body will then assess and report on to the Secretary of State. These details will be set out in secondary legislation and guidance. I confirm that the welfare declaration process will require notifiers to submit health and welfare information in response to prescribed questions and metrics. I believe that our framework is already capable of adequately addressing concerns about any health and welfare risks to a precision-bred animal and its qualifying progeny from any precision-bred traits. Adding a requirement to provide a wider evaluation of the quality of life for future generations of a relevant animal will lead to considerable uncertainty as to the overall basis on which a notifier's animal welfare declaration will be assessed. I hope that this addresses the point that the noble Lord, Lord Cameron, raised.

Clause 14 will provide for the ability to make regulations requiring the notifier or any other person to monitor for significant adverse health and welfare outcomes in precision-bred animals which are authorised for marketing under the Bill, and their qualifying progeny, and report such outcomes to the Secretary of State. This addresses the ongoing requirement which the noble Lord rightly raised for the monitoring of these animals in future. This requirement is intended to pick up on the health and welfare problems that might arise after a marketing authorisation has been granted and the animals are being commercially produced. It is linked to the powers under Clause 15, enabling the Secretary of State to make regulations covering the suspension or revocation of a precision-bred animal's marketing authorisation, in cases where new information shows that the health or welfare of the animal or its qualifying progeny is adversely affected by precision-bred traits.

The marketing authorisation will consider the whole life of the animal, and its qualifying progeny, in assessing whether any health and welfare risks arise from any precision-bred traits. I reassure noble Lords that I am confident that the most effective and proportionate means of keeping the requirements relating to animal welfare up to date is to set them out in regulations to be approved by Parliament rather than requiring amendments to primary legislation.

I turn to Amendments 24, 44 and 45, which seek to ensure that the Bill provides sufficient transparency. Clause 18(1)(j) already allows for these regulations to prescribe additional matters relating to this legislation to be published on the register of precision-bred organisms. I hope that that addresses the point that the noble Baroness, Lady Parminter, and the noble Lord, Lord Rooker, raised. I can therefore assure noble Lords that including the specific details set out in this amendment is not necessary, and I hope that this gives them enough information for the amendment not to be pressed.

On Amendment 24, I recognise that the noble Baroness is seeking to ensure that the Bill provides sufficient reporting requirements on the health and welfare of precision-bred animals and their progeny. During the stage before marketing, we expect that researchers or breeders will be collecting data for the animal welfare assessment that must be passed before precision-bred animals can be marketed. We also expect that any research involving precision breeding in animals in England will be covered by the ASPA regime, which is already effective and robust. Therefore, we do not consider it necessary to apply additional requirements. However, I reassure the noble Baroness that the type of information suggested will need to be collected before the animal can be marketed.

Before an authorisation can be granted to market a precision-bred relevant animal, Clause 11 requires a declaration that the notifier does not expect the health or welfare of the relevant animal or its qualifying progeny to be adversely affected by any precision-bred trait. Clause 11 also sets out that the application will have to be accompanied by an assessment of risks to the health and welfare of the relevant animal and its qualifying progeny that could reasonably be expected to result from a precision-bred trait, and an explanation of the steps required to identify these risks. We are trying to create a more proportionate regulatory system to enable research to take place, and much of the information will be collected as part of the marketing authorisation process.

With regard to Amendment 45, I reassure the noble Baroness that, in the interest of transparency and public reassurance, the Government are committed to maintaining a comprehensive, accurate and up-to-date register, because this information concerns a wide range of matters that she and the noble Baroness, Lady Bennett, rightly say that the public are very interested in. The register will be accessible by electronic means in real time on GOV.UK. Any interested parties are able to access the GMO register and can view all the applications for, and consents to release, GMOs, as well as notifications concerning release of qualifying higher plants. The precision-breeding register will follow the same regime.

I hope that my words have provided the assurance required for these amendments not to be pressed.

Baroness Bennett of Manor Castle (GP): The Minister addressed the point about changing the traits of animals through gene editing to make them perhaps more tolerant of crowding and more able to cope with disease, filthier conditions and conditions that do not meet their behavioural needs. He said that in the UK there is the protection of all our animal welfare legislation. I will park to one side whether I think that is adequate or not. Does he acknowledge that, while the Government talk about developing a British biotechnology industry, so-called precision-bred animals produced under this legislation are very likely to be exported and then farmed in conditions that are not covered by UK welfare law—and, indeed, often under far worse welfare law and in far worse conditions?

5.30 pm

Lord Benyon (Con): Animals are bred in this country through traditional means, and some of those traits may make them more resilient to higher stocking rates than we would allow here. We have no sovereign ability to control what other countries do, but we can put pressure on them in a variety of different ways. I do not see any philosophical, moral difference between what the noble Baroness says and what exists today. We are talking about similar means of improving the quality of animals and plants as we are doing through traditional processes. So the noble Baroness's point, although valid, is absolutely not one that we can consider in terms of legislation in this country. If I have understood her right, that is the situation in which we live.

Baroness Browning (Con): Conversely, following on from what the noble Baroness, Lady Bennett, has just said, what about imported animals? How will they be assessed in terms of the legislation before us?

Lord Benyon (Con): Currently, the importing into this country of animals that are subject to this kind of technology has to be done through our GMO regulations and laws, and that is what we are seeking to change.

The other point is that we may be breeding things that will be of huge advantage to other countries. We may well be giving people in countries that are developing, and particularly vulnerable to climate change, the ability to survive and prosper in ways that they could not have done without the technologies that we will be giving them. So I think it is a glass-half-empty approach to look at it in terms of what other countries could do with animals that are improved because of what we do, rather than thinking of what the benefits could be for other communities around the world.

Lord Winston (Lab): Well, it has been an interesting debate. As I promised on Monday, I will not have an exaggerated summing-up on this issue. One cannot deny from the literature that there is still a huge amount of unpredictability and uncertainty about some of the mutations, particularly the off-target ones, and the vulnerability of the CRISPR technique, which is still probably the best one that we have; TALENs and zinc finger nucleases are not as effective. However, that efficiency should not prevent us understanding that there are mistakes that occur during the technique. We need to discuss that and look at it in detail.

A difficulty that I have, and I think probably we all have, in this debate is that the rules of what we do in this House depend on the scope of the Bill. We have a very tricky issue here because, according to the Bill and how it is seen by many of the people running it, the scope of the Bill is the release of organisms. But, without looking at the science as well, what happens before the release of the organisms is critical to this.

[Lord Winston]
For that reason, I think both the Minister and I are at something of a disadvantage, because we cannot table sensible amendments that really cover that—and it is of course a Defra Bill.

I do not intend at this stage to discuss some of the points that the Minister has made in detail. I just think that there is enough uncertainty, as shown in so much of what I have said, that we need to have that discussion and work out who is advising us. He mentioned a number of authorities, such as some of the royal colleges—noble institutions, of which of course I am also a member—which argue that these positions are safe. I am not quite sure on what basis they are saying that or who advises the people who give out that information, because many of them will not necessarily be involved in this technology, which is so specialised. That is not to rubbish the people who are advising anybody, but I think it shows that there is a cloud around some of the issues that we are getting through.

What is undeniable is the wealth of publications that we have. For example, this publication by Carey, which incidentally seems to be funded and supported by the State of Virginia in the United States, is clearly in favour of trying to genetically modify pigs. One of the issues we always had with pigs when we did a bit of work on them in my laboratory was how difficult it was to manage a lot of the manipulations that we were doing. It is very clear that with pigs, for example, there is still considerable unpredictability in which part of which GMO is sometimes affected by the way the CRISPR is constructed. So we need to talk through a lot of issues to make this a sensible and safe procedure.

Nobody in this Chamber, unless they are very foolish, wants to try to strangle an important technology—people like me would not be working in it. Obviously, ultimately, we want to see it used in human science as well, not in modifying humans, but certainly in doing things in human medicine; not in the germ line, but certainly in the somatic cell line where you have much more control. There is clearly a very big difference there. We are not looking to make super-races, or anything like that, but it is an issue that needs to be looked at. For the moment, I beg leave to withdraw my amendment.

Lord Benyon (Con): I just reaffirm the point I made right at the beginning, which is that I would very much like to get the noble Lord, Lord Winston, and any other noble Lords together with the scientists and others who are advising us and to drill down on some of these issues before we get to Report. I have a Defra scientist's voice in my head saying, "I see your scientific paper and raise you mine". There are many coming from lots of different directions. Not all scientists agree, as noble Lords will know, but there has to be a body of opinion on which lay men like me—like most Ministers—have to take a balanced view. I assure him and others that there are no state secrets here. We need to make sure that we are working on this, and I make that offer.

Amendment 20 withdrawn.

Amendments 21 to 23 not moved.

Clause 3 agreed.

Clause 4: Release of precision bred organism: notification requirements

Amendment 24 not moved.

Amendment 25

Moved by ***Lord Rooker***

25: Clause 4, page 4, line 16, leave out subsection (3)

Member's explanatory statement

This subsection gives power to Ministers as to what the required information is to be.

Lord Rooker (Lab): My Lords, I shall take Amendments 25 and 30 together and also speak to Amendment 43. I am raising tonight only the issues in the 19th report of the Delegated Powers and Regulatory Reform Committee. I will not go into detail, but Clauses 4 and 6 give powers to prescribe information that must be provided to the Secretary of State by a person who wishes to release or market a precision-bred organism. Clauses 3 and 4 impose conditions restricting the release, including the requirement to give a release notice to the Secretary of State accompanied by any required information.

Paragraph 10 of the committee's report states:

"The 'form and content' of release notices and marketing notices and the 'required information' that must accompany them is to be prescribed in regulations made by the Secretary of State".

Paragraph 11 of the report states:

"By way of justification for these powers, the Memorandum simply asserts that each power 'allows the Secretary of State to deal with administrative matters'".

The committee said:

"We accept that the form that release notices and marketing notices are required to take might fairly be described as an 'administrative matter' but the same cannot be said about the content of such notices and the 'required information' that must be submitted with them."

It went on to say in paragraph 13:

"Accordingly, we find it surprising that the Bill itself says nothing at all about what that information should comprise and instead leaves it entirely to ministers to decide—and in regulations subject only to the negative procedure."

The conclusion of the committee was set out in paragraph 14:

"We consider that: the information that those who propose to release or market precision bred organisms are to be required to provide to the Secretary of State about this in a notice under clause 4 or 6 is a matter of significant public interest given that decisions about whether to permit such release or marketing will be based on that information".

The committee felt that, so far,

"the Government have failed to justify the inclusion in those clauses of powers that leave it entirely to ministers to determine what that information must comprise—and by regulations subject only to the negative procedure".

The committee is really asking the Minister to the provide this Committee with a convincing justification for the delegation of power in Clauses 4(3) and 6(2).

I will make a few brief points about Amendment 43, which relates to Clause 18(1) on the power to prescribe information that must be included in the precision-breeding register. The matters about which the register must contain information are release notices under Clause 4, marketing notices under Clause 6, reports

provided to the Secretary of State by the advisory committee under Clause 7, reports provided to the Secretary of State by the welfare advisory body under Clause 12, notices given by the Secretary of State under Clauses 8 and 13, and enforcement notices. Paragraph 20 of the committee report states:

"However, the information that the register must contain about these matters is left to be prescribed by the Secretary of State by regulations subject to the negative procedure."

The delegated powers memorandum supplied with the Bill by the Government attempts to provide some of the information but, at paragraph 22, the committee found

"this an unconvincing explanation for there being nothing at all on the face of the Bill about the information that the register must contain about the matters in question and for this instead to be left entirely to ministers".

The committee therefore concluded that

"the substance of the obligation that is to be imposed on the Government to keep a public 'precision breeding register' as a means of delivering transparency … is an important matter of public interest; a key aspect of the substance of that obligation is the information that the register will be required to contain about the matters specified in clause 18; it is therefore important that provision prescribing that information is subject to an appropriate level of parliamentary scrutiny".

The committee felt that

"leaving it entirely to ministers to prescribe that information by regulations therefore demands a convincing justification".

So far,

"the Government have failed to provide this; and … unless the Minister can provide the House with a convincing justification for it, the power in clause 18(1) is inappropriate."

That is basically the submission of the Delegated Powers Committee on these three points, which I am happy to put to the Committee and to the Minister.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the noble Lord, Lord Rooker, made a powerful speech far more eloquently than I could emulate. Unlike other contributors to the debate, I have inadequate experience in this field.

The public register is an important element of moving forward on genetic technology. Last time this was debated, there was wholesale opposition from the public and some local authorities. I remember the demonstrations in Somerset against GMO crops being grown in undisclosed locations and the fear that organic crops would be contaminated. Having a readily available public register of what licences have been granted and where they are is key to keeping the public on board.

5.45 pm

The three amendments that the noble Lord, Lord Rooker, has spoken to would remove the following from the Bill: first, the provision on the form and content of the release notice on the prescribed information being set by the Secretary of State alone, an issue that has been raised by the DPRRC; secondly, objections to the regulations for a precision-bred confirmation being set entirely by the Secretary of State; and, lastly, in Clause 18, under the precision-breeding register, the noble Lord, speaking on behalf of the DPRCC, wants to delete subsection 1. The noble Lord believes, and I fully support him, that the Secretary of State alone should not have the power to make these decisions. They are key to the implementation of the Bill and are likely to have long-lasting effects into the future. The decisions should therefore be made under the affirmative procedure, so that Parliament may have an input and fulfil its scrutiny role. The register of licences should be public and easily accessible for everyone who wishes to see it. If the science is as advanced and safe as the Government and some NGOs claim, why are the Government reluctant to allow the decisions to be made more openly, instead of keeping it entirely to the Secretary of State?

Baroness Wilcox of Newport (Lab): My Lords, we are grateful to the Delegated Powers and Regulatory Reform Committee for its report on the proposed powers in the Bill, and to my noble friend Lord Rooker for tabling and introducing this first batch of amendments reflecting that committee's concerns.

Almost every Bill brought forward by this Government appears to be framework legislation, with only the bare minimum included in primary legislation and almost all the detail left for an ever-increasing body of regulations. It is neither efficient nor practical, and could give rise to a crochet blanket of loopholes in our legislative framework. This House's Constitution Committee and Delegated Powers Committee have been fighting the good fight for many years, pushing back on this practice, but Ministers unfortunately do not seem willing to listen or act upon wise counsel.

We understand that the Government wish to legislate in this area, ensuring that the UK remains competitive as other countries explore the development of these new technologies or regulate for their rollout. The Minister knows that we support the passage of the Bill, but that does not mean that we think it acceptable to leave so many parts of it essentially unfinished.

On Monday, the Minister sought to reassure colleagues that nothing will happen before we are in the right position to do it. Yet here we are, considering skeleton legislation that will require an unknown number of SIs, over an unspecified timescale. The powers flagged by the noble Lord, Lord Rooker, would all be exercisable under the negative procedure, but if we are to ensure political consensus and public buy-in, should Parliament not have a formal role in approving the finer details of release and marketing notices? At the very least, is Defra able to publish additional information ahead of Report? This could be a more detailed policy statement, or indicative regulations reflecting the department's current thinking. It would certainly give reassurance that the devil is indeed in the detail.

Lord Benyon (Con): My Lords, like other noble Lords, I thank the noble Lord, Lord Rooker, and other members of the Delegated Powers and Regulatory Reform Committee, for their work on this report. I entirely support the noble Baroness, Lady Wilcox, in her assertion that we must, wherever possible, try to achieve political consensus and public buy-in, as she put it. I am grateful for the generally positive views across the Chamber on this Bill and our attempts to ensure that we are getting this right. I have listened very carefully to what noble Lords have said.

[Lord Benyon]

We are considering the committee's recommendations. The Government are drafting a response to the DPRRC report, and we will publish our full response, in the usual way, way ahead of Report. In the meantime, I will take this opportunity to set out some more detail around taking these powers and how we intend to use them.

We expect that, when Clause 4 is brought substantively into force, the content and information required in a release notice would be the same as that in the Genetically Modified Organisms (Deliberate Release) (Amendment) (England) Regulations 2022, which Parliament agreed under the affirmative procedure earlier this year. However, precision breeding is a rapidly developing area. Indeed, we hope that the Bill will stimulate domestic research and development in this field. It is therefore important that we can adjust our requirements for the form and content of the notice and any accompanying information. Any updates to requirements are likely to be technical or administrative and are needed, for instance, to keep pace with technological developments.

The regulations I mentioned, which enabled qualifying higher plants to be released provided the requisite notice has been given to the Secretary of State, have been in place since April 2022. Various research institutes have already taken advantage of this legislation to inform the Secretary of State of their qualifying higher plant releases. For the marketing of a precision-bred product, a different notification would be required, as this will need to contain detailed technical information that enables the advisory committee to provide a report to the Secretary of State on whether it considers the organism to be precision bred. The criteria for this assessment are already laid out in Part 1 of the Bill. For example, descriptions of any genetic features resulting from the application of modern biotechnology and their stability will need to be provided. As with the release notice, we will need to be able to make technical and administrative adjustments to reflect technological developments.

I turn now to the amendment to Clause 18. This amendment would remove the provision on setting up a register, so there would be no requirement for a public register of precision-bred organisms, as well as the delegated power to prescribe the information that must be published on such a register. I want to assure noble Lords that a list of matters which could be included on the register is set out in the Bill. This list includes, but is not limited to, information relating to the release and marketing notices, reports from advisory committees and enforcement notices. In the interest of transparency and public reassurance, this clause enables information concerning a wide range of matters relating to precision-bred organisms to be made public. We consider that specific details of the information to be entered on to the register are an administrative matter, though we will reflect on the comments made in the DPRRC report on this clause and respond to the committee's concerns in our full response in due course.

This clause is similar to the power in Section 122 of the Environmental Protection Act 1990, which enables the Secretary of State to prescribe by regulations the information to be entered on to the GM register. Therefore, the level of scrutiny we have provided for in relation to the information to be entered on to the public register regarding precision-bred organisms would be comparable to the equivalent provision for GMOs. I hope this provides noble Lords with the assurance they need ahead of our written response to the DPRRC report.

Lord Rooker (Lab): I beg leave to withdraw the amendment.

Amendment 25 withdrawn.

Amendment 26

Moved by ***Baroness Bakewell of Hardington Mandeville***

26: Clause 4, page 4, line 24, leave out "negative" and insert "affirmative"

Member's explanatory statement

This amendment would mean regulations made under Clause 4 are subject to the affirmative procedure.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I have four amendments in this group, and I have added my name to the amendment in the name of the noble Baroness, Lady Bennett of Manor Castle.

When I first read the Bill, I made a note of the number of affirmative and negative procedures listed; there were 15 affirmative and 13 negative. The first time the Agriculture Bill came forward, it was berated because of the number of negative procedures and Henry VIII powers it contained. As we all know, the original Bill was paused and then amended, before being resubmitted for debate. The second iteration had far fewer negative procedures and received a far warmer welcome as a result.

I have chosen carefully those negative instruments that I believe ought to be affirmative. The first is Amendment 26 to Clause 4, which is headed "Release of precision bred organism: notification requirements". Although it is of course important that the Secretary of State decides on this, it is also vital that Parliament debates and understands the implications of what this considerable step forward—the release of gene-edited plants and crops—will be. This will be especially important if and when the science has progressed to such an extent that animals are included because, as the Bill stands, there is no mechanism for Parliament to be involved when this step does occur. As the noble Lords, Lord Winston and Lord Krebs, have demonstrated this afternoon, this is a fiendishly technical Bill that deserves close scrutiny.

Next is Amendment 33 to Clause 11, which would give the Secretary of State the ability to include animals in the authorisation process. On Monday, we debated the efficacy of including animals in the Bill. Although there were arguments on both sides for this to happen, it was clear from the Minister's response that the Government are determined for this to happen. It is therefore vital that, when this happens and the Secretary of State is ready to sign his or her authorisation, Parliament should have the ability to debate this addition in the Chamber or, more likely, in Grand Committee.

Then there is Amendment 46 to Clause 18, on the precision breeding register. The noble Lord, Lord Rooker, has already detailed his objections to subsection (1)

being included in the Bill. The clause gives extraordinary power to the Secretary of State. Although the Secretary of State must make the register accessible electronically, the public will have no say over how any of the subsections in the clause are implemented. As has already been stated, both on Monday and this afternoon, we are keen not to have a repeat of the previous GM abortive attempts to get legislation passed. This previous failure could be driving the Bill's use of negative procedures for key elements. This is a mistake. You do not take the public or Parliament with you if you shut them out from the discussion and debate around decision-making. Moving to the affirmative procedure would ensure that Parliament had a say on the vital issue of the precision breeding register.

My last amendment in this group is Amendment 52 to Clause 22, on the advisory bodies. Again, the objection to this clause being implemented under the negative procedure by the Secretary of State is one of public confidence. The welfare advisory body will be the gatekeepers to whom the public will look for reassurance that all is well with the progress of precision-engineered crops and, later, animals. To have this body appointed by the Secretary of State and paid for by the taxpayer without any parliamentary scrutiny is definitely not going to foster confidence in Parliament, certainly not among the public.

Other noble Lords have referred to ACRE and the level of expertise of the people sitting on the welfare advisory body's board. The interests of those appointed should be made available to the public and interested NGOs. Independence is vital.

I have added my name to the notice by the noble Baroness, Lady Bennett of Manor Castle, about whether Clause 42 should stand part of the Bill. Again, this clause gives unlimited power to the Secretary of State to modify the Act in any way that he or she chooses without any scrutiny by Parliament. I support her on this amendment.

I feel passionately about the role of the negative procedure. It does have its place, but not in the amendments I have listed. I trust that the Minister will have encouraging words. I beg to move.

Lord Harlech (Con): My Lords, I beg to move that the debate on this amendment be adjourned, to resume the House to take questions on an Oral Statement.

5.59 pm

House resumed.

Illegal Immigration

Statement

The following Statement was made in the House of Commons on Tuesday 13 December.

"With permission, Mr Speaker, I would like to make a Statement on illegal migration. I hope that the whole House will agree that there is a complex moral dimension to illegal migration. The balancing of our duty to support people in dire need with the responsibility to have genuine control over our borders understandably provokes strong feelings. So it is my view that the basis for any solution should be not just what works but what is right.

The simplest moral framing for this issue, and one that I believe Members on both sides of the House believe in, is fairness. It is unfair that people come here illegally. It is unfair on those with a genuine case for asylum when our capacity to help is taken up by people coming through—and from—countries that are perfectly safe. It is unfair on those who migrate here legally when others come here by cheating the system. Above all, it is unfair on the British people, who play by the rules, when others come here illegally and benefit from breaking those rules. So people are right to be angry, because they see what I see, which is that this simply is not fair.

It is not cruel or unkind to want to break the stranglehold of criminal gangs who trade in human misery and who exploit our system and laws. Enough is enough. As currently constructed, the global asylum framework has become obsolete. Today, there are 100 million people displaced globally. Hostile states are using migration as a weapon on the very borders of Europe. As the world becomes more unstable, and the effects of climate change make more places uninhabitable, the numbers displaced will only grow.

We have a proud history of providing sanctuary to those most in need. Britain helped craft the 1951 refugee convention to protect those fleeing persecution. My right honourable friend the Member for Maidenhead (Mrs May) passed the world's first Modern Slavery Act in 2015. In the last year, we have opened our hearts and our homes to people from Hong Kong, Afghanistan and Ukraine. Thousands of families will be setting extra places around the Christmas table this year. No one—no one—can doubt our generosity of spirit.

But today, far too many of the beneficiaries of that generosity are not those directly fleeing war zones or at risk of persecution, but people crossing the channel in small boats. Many originate from fundamentally safe countries. All travel through safe countries. Their journeys are not ad hoc, but co-ordinated by ruthless, organised criminals, and every single journey risks the lives of women, children and—we should be honest—mostly men at sea.

This is not what previous generations intended when they drafted our humanitarian laws; nor is it the purpose of the numerous international treaties to which the UK is a signatory. Unless we act now and decisively, this will only get worse. Already in just seven weeks since I became Prime Minister, we have delivered the largest ever small boats deal with France, with significantly more boots on the ground patrolling its beaches. For the first time, UK and French officers are embedded in their respective operations in Dover and northern France. We have re-established the Calais group of northern European nations to disrupt traffickers all along the migration route. Last week, the group set a long-term ambition for a UK-EU-wide agreement on migration. Of course, that is not a panacea, and we need to go much further. Over the last month, the Home Secretary and I have studied every aspect of this issue in detail, and we can now set out five new steps today.

First, our policing of the channel has been too fragmented, with different people doing different things being pulled in different directions. So we will establish a new, permanent, unified small boats operational

[Lord Harlech]
command. This will bring together our military, our civilian capabilities and the National Crime Agency. It will co-ordinate our intelligence, interception, processing and enforcement, and use all available technology, including drones for reconnaissance and surveillance, to pick people up and identify and then prosecute more gang-led boat pilots. We are adding more than 700 new staff and also doubling the funding given to the NCA for tackling organised immigration crime in Europe.

Secondly, those extra resources will free up immigration officers to go back to enforcement, which will, in turn, allow us to increase raids on illegal working by 50%. It is frankly absurd that today illegal migrants can get bank accounts which help them live and work here. So we will restart data sharing to stop that.

Thirdly, it is unfair and appalling that we are spending £5.5 million every day on using hotels to house asylum seekers. We must end this. We will shortly bring forward a range of alternative sites, such as disused holiday parks, former student halls and surplus military sites. These sites will accommodate 10,000 people, and we are in active discussions to secure them and many more. Our aim is to add thousands of places through this type of accommodation in the coming months, at half the cost of hotels. At the same time, as we consulted on over the summer, the cheapest and fairest way to solve this problem is for all local authorities to take their fair share of asylum seekers in the private rental sector, and we will work to achieve this as quickly as possible.

Fourthly, we need to process claims in days or weeks, not months or years, so we will double the number of asylum caseworkers. We are radically re-engineering the end-to-end process, with shorter guidance, fewer interviews and less paperwork, and we are introducing specialist caseworkers by nationality. We will also remove the gold-plating in our modern slavery system, including by reducing the cooling-off period from 45 days to 30 days, the legal minimum set out in the Council of Europe convention on Action against Trafficking in Human Beings. As a result of all these changes, we will triple the productivity of our caseworkers and we expect to abolish the backlog of initial asylum decisions by the end of next year.

Fifthly, and most significantly, a third of all those arriving in small boats this year, almost 13,000 people, are Albanian, yet Albania is a safe, prosperous European country. It is deemed safe for returns by Germany, France, Italy and Sweden. It is an EU accession country, a NATO ally and a member of the same convention against trafficking as the United Kingdom. The Prime Minister of Albania himself has said there is no reason why we cannot return Albanian asylum seekers immediately. Last year, Germany, France, Belgium and Sweden all rejected almost 100% of Albanian asylum claims, yet our rejection rate is just 45%. That must not continue, so today I can announce a new agreement with Albania and a new approach.

First, we will embed Border Force officers in Tirana Airport for the first time ever, helping to disrupt organised crime and stop people coming here illegally. Secondly, we will issue new guidance for our caseworkers to make it crystal clear that Albania is a safe country. Thirdly, one of the reasons why we struggle to remove people is that they unfairly exploit our modern slavery system, so we will significantly raise the threshold someone must meet to be considered a modern slave. For the first time, we will require a caseworker to have objective evidence of modern slavery, rather than just a suspicion. Fourthly, we have sought and received formal assurances from Albania confirming that it will protect genuine victims and people at risk of re-trafficking, allowing us to detain and return people to Albania with confidence and in line with ECAT. As a result of these changes, the vast majority of claims from Albania can simply be declared clearly unfounded, and those individuals can be swiftly returned. Lastly, we will change how we process Albanian illegal migrants, with a new dedicated unit, staffed by 400 new specialists, expediting cases within weeks. Over the coming months, thousands of Albanians will be returned home, and we will keep going with weekly flights until all the Albanians in our backlog have been removed.

In addition to all these new steps, let the House be in no doubt that, when legal proceedings conclude on our migration and economic development partnership, we will restart the first flights to Rwanda, so that those who are here illegally and cannot be returned to their home country can build a new life there.

However, even with the huge progress that we will make with the changes I have announced today, there remains a fundamental question: how do we solve this problem once and for all? It is not just our asylum system that needs fundamental reform; our laws need reform too. We must be able to control our borders to ensure that the only people who come here come through safe and legal routes. However well intended, our legal frameworks are being manipulated by people who exploit our courts to frustrate their removal for months or years on end.

I said, 'Enough is enough', and I meant it. That means that I am prepared to do what must be done, so early next year we will introduce new legislation to make it unambiguously clear that, if you enter the UK illegally, you should not be able to remain here. Instead, you will be detained and swiftly returned either to your home country or to a safe country where your asylum claim will be considered. You will no longer be able to frustrate removal attempts with late or spurious claims or appeals, and once removed, you should have no right to re-entry, settlement or citizenship.

Furthermore, if our reforms on Albania are challenged in the courts, we will also put them on a statutory footing to ensure that the UK's treatment of Albanian arrivals is no different from that of Germany or France. The only way to come to the UK for asylum will be through safe and legal routes and, as we get a grip on illegal migration, we will create more of those routes. We will work with the United Nations High Commissioner for Refugees to identify those who are most in need so that the UK remains a safe haven for the most vulnerable. We will also introduce an annual quota on numbers, set by Parliament in consultation with local authorities to determine our capacity, and amendable in the face of humanitarian emergencies.

That is the fair way to address this global challenge. Tackling this problem will not be quick; it will not be easy; but it is the right thing to do. We cannot persist

with a system that was designed for a different era. We have to stop the boats, and this Government will do what must be done. We will be tough but fair, and where we lead, others will follow. I commend this Statement to the House."

6 pm

Baroness Smith of Basildon (Lab): My Lords, I am grateful that the Government made an additional Statement in the other place on the truly dreadful incident in the channel in the early hours of this morning. It is tragic, but it is also an immensely distressing event and our thoughts are with those who have lost their lives, their families and their loved ones who have received that unimaginable news today, and with those who were rescued from the freezing conditions. Our immense thanks go to the first responders, the emergency services, who show enormous bravery in saving lives—not just this morning; they regularly take these risks. It is a painful reminder of the importance of tackling criminal gangs that make a profit from the misery and loss of life that we have seen this morning.

On Friday, the most reverend Primate the Archbishop of Canterbury led his annual debate on the UK's asylum policy. It thoughtfully captured and reflected on the challenges faced. This is an area that requires honesty, responsible policy-making and, of course, compassion. We regret that the Government's record so far has not lived up to those expectations. However, there are proposals in the Prime Minister's Statement that we welcome. I have to say that we have heard so much of the rhetoric before. Today's terrible news emphasises why this issue has to be tackled with urgency and why we need effective, workable and decent policies on immigration, asylum and refugees.

There has been a complete collapse in decision-making by the Home Office, with only 4% of people who made small boat crossings being processed last year, an ever-growing backlog of almost 150,000 cases, huge pressures on accommodation, rising costs, and people waiting in limbo, sometimes for years, for basic initial decisions to be taken. Staffing problems have been made worse by inadequate training and appalling attrition rates. In Home Office-provided accommodation, we have witnessed disease outbreaks and child safeguarding failures. While these problems have grown, the backlog waiting for government action has increased by over 300%—I repeat, just in case *Hansard* thinks I have made a mistake, that it has increased by over 300%—in the past five years. We have had talk of wave machines, a public disagreement between the Home Office and the Navy about push-back of tiny vessels, and a costly £140 million Rwanda policy that Home Office officials were unable to sign off as being evidence-based or value for taxpayers' money. Not one single person has been transported to Rwanda.

Last year, a previous Home Secretary promised that the Government's new plan for immigration was the answer, but clearly it was not. We were promised that the then Nationality and Borders Bill was the answer, except the Prime Minister's Statement admits that it was not either. In truth, that Act removes protections for victims of modern slavery while hardwiring extra delays into the asylum system. The Prime Minister is right now to notice the scale of the Home Office backlog and that initial decisions need to be made in days and weeks rather than taking years.

However, I hope the noble Lord, Lord True—the Lord Privy Seal and Leader of the House—can help me. Just a few hours after the Prime Minister addressed Parliament yesterday with the promise to clear the backlog, that was downgraded to a promise to clear some of the backlog, with cases up to only June 2022 being in scope when the Nationality and Borders Act is commenced. Is the Lord Privy Seal able to tell the House today how many thousands of cases currently in the system the Government expect still to be waiting for an initial decision in a year's time? Can he explain why it is harder to clear cases that have been handled under the new systems that were brought in by the Nationality and Borders Act? I fail to understand that.

We welcome proposals for fast-tracking claims, which we have been calling for and have been recommended for some time by the UNHCR. Many of our closest neighbours and allies already use such systems. We also welcome the additional caseworkers, who are badly needed to address the backlog. Could the noble Lord say something about whether that intention to double the number includes the 400 specialists for the dedicated Albanian scheme or whether that is additional? However, I am sure he will be aware that staffing issues are about not just numbers and recruitment but the quality of training and the current high staff turnover. What is being done to change the training and experience of staff to ensure confidence in the accuracy of decisions and that expertise is retained?

At the heart of everything we are discussing are the criminal gangs putting lives at risk and making profit from misery. We have long promised a major new unit in the National Crime Agency to tackle the criminal gangs and to work across borders to secure prosecutions. It will be funded by the £140 million the Government are currently spending on the failed Rwanda policy. The noble Lord the Leader will be aware of how these gangs advertise and, in effect, recruit their victims. Is he confident that the Government are doing enough work internationally—that is the only way to tackle this issue—to identify and close down these gangs, and to bring prosecutions wherever possible? Much of this is advertised on the internet. Surely it must be possible to do far more than is done at the moment.

Can the noble Lord also give more information on the proposed operational unit for small boats? How will this differ from what is in place already? How will that unit link into the wider work on cross-border immigration crime? If he can say something about the level of funding promised, that would be very helpful.

On accommodation, the Prime Minister said that alternative sites would be brought forward "shortly". I know that is a bit like "in the fullness of time" and "when resources allow", but can the noble Lord say something about the timescale? With Napier barracks and more recently at Manston we have seen the chaos and health risks inflicted on staff, local communities and those seeking asylum. It is not just about the provision of accommodation but about the wider system that it sits in.

[Baroness Smith of Basildon]

A crucial point I would like the noble Lord to say something about is how safeguarding procedures are being changed to address some catastrophic failures of Home Office safeguarding that have led to children in Home Office care going missing and just disappearing from the system. We have sought an update on this for some time and we have not received satisfactory answers, so if he can find anything today or ensure that Ministers can write to us we would be very grateful.

The UK has a proud record of being at the forefront of tackling modern slavery. That is a result of years of cross-party working and a proud legacy of a former Conservative Prime Minister. The modern slavery system protects adults and children from being trafficked into the UK into unimaginable situations, and secures prosecutions of vile people traffickers. I recall a personal case of a constituent who was trafficked and the life she led before she was rescued from that situation. When the Prime Minister says, rather too casually, that he wants to remove what he called the "gold-plating" in our system, what exactly does he mean? Is there an assessment of the impact that will have on victims, particularly children, including on the ability to secure prosecutions? I would like some detail about what "gold-plating" means in practice.

Finally, I pay tribute to my noble friend Lord Dubs for his work on safe routes. Safe, managed, legal routes are the most effective way to prevent those seeking asylum—not economic migrants—making desperate, dangerous crossings, and to break the business model of people smugglers. The Home Office should, as a minimum, review family reunion routes and safe routes for unaccompanied children. The Prime Minister suggests that safe routes will be considered but not until other parts of the Statement are complete. I do not understand that. Surely it would be far more effective if this was part of a comprehensive, holistic approach.

When we talk about the numbers of those crossing the Channel, about asylum seekers and refugees, we should never forget that each is an individual with hopes and aspirations for their future, and that in so many cases they are being abused and conned by criminal gangs. If action to prevent such dangerous crossing is to be effective, there needs to be a whole package of measures, and it has to be a package of measures that understands why they take those risks.

Lord Newby (LD): My Lords, the tragic deaths of four migrants attempting to cross the channel in a small boat overnight are horrifying and heartbreaking. They underline the importance of sorting out not only the channel crossings but the immigration and asylum system as a whole.

There are a number of distinct but related questions covered by the Prime Minister's Statement. First, how do we deal with the surging numbers of Albanians who are using this route, the vast majority of whom are straightforward economic migrants? The Government set out a five-point plan, including the deployment of Border Force officers in Tirana and the appointment of 400 staff dedicated to expediting Albanian cases. Time will tell whether these measures are effective, but I suspect it is unwise to suggest, as the Government do, that there are effectively no victims of modern slavery emanating from Albania. It is naive to think that the current reality of retrafficking will be eliminated, and it must be hoped that the new Home Office staff receive some better training than appears to have been the case with many recently appointed asylum and immigration caseworkers.

The second question is: how do we deter and deal with those crossing the channel who are not Albanian? The Government are going to improve policing in the channel by appointing 700 new staff and yet again tinkering with the management structure for the operation; they hope that this will disrupt the criminal gangs involved, and for those who do reach our shores, they are going to restart flights to Rwanda. Even in the unlikely event of these policies being effective, they are not going to deal with a large part of the underlying problem: they will not deal with the problem of genuine asylum seekers.

So far this year, some 40% of those making the crossings are from five countries: Syria, Eritrea, Afghanistan, Sudan, and Iran, of whom the overwhelming majority will be granted asylum because they are genuine asylum seekers. To deter these people from boarding a dinghy, we need to establish safe and legal routes. The Prime Minister says that the Government will do this, but the law at present means that, with limited exceptions, it is simply not possible to enter the UK legally as an asylum seeker. So, exactly how are the Government going to establish safe and legal routes?

The third question is: how do we deal with the huge backlog of asylum and other immigration cases? In the short term, the Government are going to find cheaper places to accommodate asylum seekers by using, amongst other things, surplus military sites. Having seen the amateurish approach adopted by the Home Office in its plans to use the disused RAF base at Linton-on-Ouse as a reception centre—now thankfully abandoned—I have literally no confidence in Home Office officials to manage this process effectively. What additional management resources are now being deployed by the Home Office to ensure that these new facilities are properly chosen and managed?

In order to deal with the backlog itself, the Government are doubling the number of caseworkers; as long as these new officials are properly trained this is very welcome, but I fear that, even with them, it may be slightly hubristic to claim that the backlog will have been cleared within 12 months. In the meantime, the Government are showing no movement on allowing asylum seekers to work, this is wrong-headed in every respect. They want to work, the country is crying out for workers of all types, so why will the Government not let them work?

In terms of the overall approach, the Prime Minister says:

> "No one—no one—can doubt our generosity of spirit."

Given the "hostile environment" policy, the whole raft of blood-curdling Statements by current and former Home Secretaries and the shameful slowness to deal with some of the most vulnerable groups of asylum seekers, not least from Afghanistan, I am afraid I doubt the generosity of spirit shown consistently by this Government. Far from generosity of spirit, their whole approach has been mean-spirited and unwelcoming.

Moreover, this alleged generosity is now to be tempered by having an annual cap on asylum seekers. The Prime Minister says that this is to be set by Parliament, but he means that it will be set by the Government—by this Home Secretary, with the Prime Minister's blessing. This is not generosity of spirit; it is Scrooge at his worst.

The Lord Privy Seal (Lord True) (Con): My Lords, I thank the noble Lord and the noble Baroness opposite for their comments. Amid all the criticisms and expressions of disappointment at things that have happened so far, there was a sort of implied acceptance, perhaps with a mild element of doubt from the noble Lord, Lord Newby, of the Government and, mostly notably, my right honourable friend the Prime Minister, who, I can say from the closest possible quarters, from the moment he became Prime Minister has personally gripped this issue and gripped it in a way that is in line with his characteristic, compassionate, competent and clear-headed approach. I can say from the closest possible quarters.

It is easy to throw criticisms. I could say, perhaps, that the other parties have not been as supportive of some of the measures that Governments have tried to take in the past. However, what we need to do now—and, frankly, I think that the public expects this—is to address the abuses that are going on. The noble Baroness was quite right to stress the bestial nature of the organised crime involved in this. I am grateful for what she said about the terrible events in the channel last night, when, at three o'clock in the morning, authorities were alerted to an incident concerning a small boat in distress. After a co-ordinated search and rescue operation, as many noble Lords will know, led by HM Coastguard, it is a great regret that there have been four confirmed deaths so far. Investigations are ongoing, and we will provide further information in due course. I agree with the noble Baroness that this was a truly tragic incident, and our thoughts are with the friends and families of all those who have lost their lives. I join the noble Baroness in expressing our utmost sadness and heartfelt sympathy to them, as well as paying tribute to the agencies dedicated to saving lives at sea. Day in and day out, Coastguard, RNLI, Border Force—all those involved—work with unsung dedication, seeking to save the lives of people put in peril not by this Government or any other Government but by ruthless, organised criminality.

I was asked a large number of questions; I do not think I will be able to answer all of them in the time allowed, but clearly we will seek to respond in detail to anything that was not answered.

The noble Baroness was a bit disparaging about the Rwanda partnership, as was the noble Lord, Lord Newby. The Government's intention is to make our migration and economic development partnership with Rwanda work, so that, yes, we can send people who make dangerous, illegal and unnecessary journeys to the UK to a safe third country. That will allow us to remove many people who travel to the UK illegally. We are continuing to plan for this policy, but of course there is pending ongoing litigation in the courts. We are expecting a judgment from the High Court shortly, and fully believe that the courts will find the policies legal, and that claimants can be removed to Rwanda without breaching our international treaties.

On numbers and clearing the backlog, I do not believe it right to say, as the noble Baroness did, that there was a sudden change in policy. It was perhaps not fully understood. It was made very clear in the briefing I have that, with regard to the pledge and intention to clear the backlog of those who came into the process before 28 June 2022, there was an absolute commitment to get it completed by the end of next year. That date is chosen because that is the point where we change the system through the Nationality and Borders Act to reform how we process cases. Obviously, work will continue on the continuing flow to see that it is cleared. It is true that, as of September, there were 117,000 outstanding initial asylum decisions.

I welcome the support for extra staff. I have the Home Office Minister sitting alongside me, and I am sure he will have heard what has been said about the need to provide proper and full training. The new small boats organisation will bring together military and civilian institutions in a single operation. We believe that will provide greater coherence, and work towards that is under way. I shall have to write to the noble Baroness about the particular issue on safeguarding children, although, again, my noble friend from the Home Office will have heard that.

On legislation, which the noble Baroness also asked about, as the Prime Minister said, the intention is to introduce legislation next year. The Prime Minister indicated some of the core objectives of that legislation, which would mean that those who entered this country illegally could not expect to remain. However, these matters are still under consideration and proposals will be laid before your Lordships, I hope at an early date. I am not giving any commitment as to when it will be, but there will be legislation, as the Prime Minister said yesterday.

I was asked about modern slavery by the noble Baroness and the noble Lord, Lord Newby, who were both kind enough to refer to the fact that my right honourable friend Theresa May pioneered the action in this area. Modern slavery is a problem; it remains an issue, and the Government are determined to tackle it and deal with it. As for gold-plating, there are aspects of the decisions made in relation to modern slavery that will be considered, such as the evidential basis and points where there has been clear evidence of modern slavery. I may not be using the correct words, but the core process or structure of the legislation is not affected.

On safe routes, I agree profoundly with what the noble Baroness and the noble Lord said. The Prime Minister made it very clear that, while being firm on illegal immigration, we wish to maintain safe and legal routes. That is a matter of ongoing consideration. In fact, by cracking down on illegal immigration, we will be able to be more generous with those who really need our help, and we will introduce new safe and legal routes for those at risk of war and persecution to come and seek refuge and protection in the United Kingdom. We will consult on the cap or quota, which has been referred to, for those coming through our safe and legal routes, and on how the cap will be decided, incorporating lessons from what we have done in great community partnership through Homes for Ukraine.

[LORD TRUE]

We should not forget that the United Kingdom has been extraordinarily generous—the most generous in recent political history. We have a proud history of supporting those fleeing persecution. Since 2015, we have resettled 450,000 vulnerable people here, including 144,000 from Hong Kong, 20,000 from Syria, approximately 20,000 from Afghanistan and around 150,000 Ukrainians. We will continue that compassionate stance towards others.

I was asked about accommodation. This is obviously the subject of ongoing discussion. The Prime Minister gave some indication, and it was referred to, that we will look for different approaches and different methods of doing it. We are spending £5.6 million a day—£6.5 million if you include Afghan refugees—on accommodation. We are accommodating 112,000 people at the moment, and I think it reasonable that consideration be given to alternative sites, particularly for those under discussion in this Statement. That is what we will do and as we consult and decide, further information will be given to your Lordships.

Against the background of the generosity I have described, I do not think the hostile environment mentioned by the noble Lord, Lord Newby, is correct. It is true that we have learned lessons from the Windrush scheme and what happened in relation to Windrush, but we believe it to be reasonable that bank data and other data should be used and considered to identify illegals.

I was obviously asked specifically about Albania, which has been the centre of discussion; indeed, it is very well known that large numbers of Albanians are coming in. I would like to say how grateful we are to the Government of Albania for their support; I think that is the fruit of our good diplomatic outreach on these matters. The deal gives us assurances that we will be able to return alleged victims of modern slavery safely to Albania. They will be provided with protection and support in accordance with obligations under ECAT.

There is a dedicated processing task force. We believe Albania is a safe country, and 100% of Albanian applications are rejected by those vicious nations Germany and Sweden. Germany and Sweden are liberal nations and reject 100%; we reject only 44.6%. I think it perfectly reasonable that, with the co-operation of the Albanian Government, we take action to address this problem, which, like many others involved, has grown, changed and morphed, and the Government are responding to it.

6.27 pm

Baroness Lister of Burtersett (Lab): In his response to the Statement, the UNHCR made it clear that the designation of safe countries such as Albania must not lead to the blanket rejection of asylum applications because an assessment of the merits of individual claims is still required. Yesterday, my noble friend Lord Ponsonby asked specifically about protection for those fleeing domestic violence. The noble Lord, Lord Murray of Blidworth, did not reply to that part of my noble friend's question. Will the noble Lord the Leader of the House do so now please and provide an assurance that there will be a proper assessment of risk and vulnerability in all cases?

Lord True (Con): My Lords, my noble friend is sitting alongside me and the easiest thing for me to do, rather than turning to him and asking him now, would be to ask him later. I regret if the reply has not been received. I am sure he has asked for guidance on the subject, and we will ensure we get a reply to the noble Baroness on that specific point.

The Lord Bishop of St Albans: My Lords, there are a number of aspects of this Statement which I welcome, not least that there are going to be increased numbers of people processing and that the aim is to process within weeks rather than months and get people through the system much more quickly. But there really has been quite a problem, not least at Manston, where at one stage 4,000 people were staying in a centre designed for 1,600. As they were being shipped out around the country, a whole lot were delivered into Luton, in my diocese, with no warning. Even the local authority was not able to help. So my question is: what lessons have been learned? Can we be sure that we are really communicating well with local authorities, so that we can work on this together, give people dignity and try and process them as quickly and effectively as we can?

Lord True (Con): The answer, I hope, is yes. I would say that, would I not, as a former leader of a local authority? I think that local authorities have a very important role to play here. I think that was very much part of the Statement that my right honourable friend the Prime Minister made. There will be mistakes and there have been mistakes; the Prime Minister was absolutely clear about that. There is no silver bullet either to these matters. Our collective duty is to toil to address what is a real problem—and is perceived to be a real problem by the majority of people in this country—but to do so in a humane and practical manner. That is what I would wish to be the sense that informed the Government of which I am a part, and that is how I perceive my right honourable friend.

I welcome what the right reverend Prelate said about the number of case workers; yes, we are seeking to double that number, so that we can clear the asylum backlog by the end of next year. I agree that we need to process claims in days or weeks, not months or years. That is not acceptable, which is why we are doubling the number of case workers to 2,500, and also radically simplifying the casework process, with shorter guidance, fewer interviews, less paperwork, and specialist casework by nationality, because the needs and responses by nationality are sometimes different. So I hope that we will go forward in that spirit, as the right reverend Prelate asks.

Lord Faulks (Non-Afl): My Lords, I very much welcome this Statement. It shows that the Government are trying in a number of different areas to grasp this very difficult problem. Of course, the proof of the pudding will be in the delivery of these various policy objectives. I particularly welcome the speeding up of the initial decision-making, and the increased training and number of caseworkers. But I wonder whether the Leader of the House can help us with this: even once the initial decision has been made, there very often follows a long and tortuous process, with repeated

appeals in the courts. I know that the Minister will not be able to give details of the legislation that is likely to follow next year, but can he help as to whether it is likely to bear on the question of repeated appeals, often using different grounds, to try to speed up the process so that the matter can be determined, one way or another, as quickly as possible?

Lord True (Con): I think that my noble friend, with his typical ingenuity, invites me to anticipate what will be in the legislation when it comes. What I would say, obviously, is that the labyrinthine nature of the process—which arises from a desire, let us not forget, to protect vulnerable individuals—is something that the Government and this House legitimately need to look at. I talked of change and the way that things have evolved: the original impact assessment for the Modern Slavery Act, which was a great reforming piece of legislation, anticipated 3,500 modern slavery victims a year. In the first three quarters of this year, there have been about 12,500. It is quantity, as well as the nature of the process, that means that claimants wait for a long time. The average now, which is not acceptable, is 531 days for a conclusive grounds decision: that is up from 68 days in 2014. So we do need to streamline the system in many ways.

Lord Walney (CB): The Prime Minister omitted from his Statement yesterday any sense of what Albania is getting from this agreement. Now, there is significantly greater detail in the joint communiqué between the UK and Albania, but could the Minister be clear that the UK has promised to invest more in the country, through civil society, education and direct foreign investment programmes, which are mentioned in the communiqué? How much has been pledged and is Albania expecting from the UK?

Lord True (Con): My Lords, I think the agreement with Albania was very welcome on both sides. I cannot give the House a specific number or figure, but I will take the noble Lord's question away. Obviously, there has been a very positive joint communiqué, which has been published. We will be providing specific support to the Albanians to bolster their mechanisms to deal with these problems. We will provide investment in additional protection services. We will provide support to Albania on investigating trafficking, in accordance with the obligation under Article 4 of the ECHR. We will provide support for bolstering cyber and communications security to reinforce Albanian operations. We will also continue to co-operate with Albania, as is made clear in the communiqué, in promoting socio-economic development and creating skills and jobs for young people. These things are very important. We have reaffirmed our intention to do direct investment in strategic sectors in Albania. What I do not have is a specific overall figure, but I can assure noble Lords that the good intentions of both parties are there and I hope they will bear fruit in all those spheres—both in security and in the other parts of co-operation.

Lord Jopling (Con): My Lords, perhaps I might follow the earlier remarks from the noble Lord, Lord Newby, who reminded us of the aborted attempt by the Government to accommodate asylum seekers at Linton-on-Ouse in north Yorkshire. Would the Minister accept that, with the Prime Minister saying that military bases will be used in future, almost all the military bases that might become available are likely to receive the same passionate local opposition as did the project at Linton-on-Ouse? Because there will, I guess, be that opposition, I wonder whether the Government might think of trying to accommodate these asylum seekers in cruise ships that have served their time and have recently been used for commercial tourism but are likely to be moved to scrapyards. They might well be suitable for a short time to accommodate asylum seekers, rather than military bases.

Lord True (Con): My Lords, I accept what my noble friend says about the challenge of finding accommodation and the challenge that sometimes our charity is dispersed rather than immediate in geographical terms. If we are to solve this issue, we do have to identify sustainable sites. We have already identified sites to accommodate 10,000 people, and we are in active discussion to secure these and more. Through these discussions, our aim is to add thousands of places through this type of accommodation in the coming months.

However, my noble friend has a point: it is important to work in partnership with local areas, but the Government are thinking flexibly. There has been reference to disused holiday parks and Ministry of Defence sites, such as he mentioned. The private rented sector could certainly have a significant part to play and, coming directly to his point on vessels, we are testing the feasibility of securing a suitable vessel or vessels as an alternative to hotel accommodation, building on the Scottish and Dutch examples of using cruise ships. But that is part of a potential programme of action; our first step is not starting there. We are looking at the other forms of accommodation that I mentioned, but I have to be honest with the House: the point my noble friend made is one which, among other things, is under consideration.

Lord Rooker (Lab): Can I ask the Minister about one sentence in the Statement? It is at the top of page 7, and says:

> "It is frankly absurd that today illegal migrants can get bank accounts which help them live and work here".

I have changed my mind since I was Immigration Minister at the Home Office—pragmatically, because we have lost 630,000 workers from this country in the last four years. I think anybody who is here for over three months should be allowed to work. The Home Office rightly points to the pull factors. It is easier to work illegally in this country than anywhere in Europe and there is no ID system, but the other point is this: what about the national insurance system?

When I was at the DSS, I sat in while that department's staff were interviewing people who had come here about their national insurance number. I was introduced as a researcher, not a Minister, and I know the effort they go to. While the Prime Minister may say that we do not want them to have bank accounts to help them work here, as far as the public are concerned, they take the view that the more those who come here work, and pay tax and national insurance, the better. Maybe that would be while they are going through the system for a

[Lord Rooker]
year. There would be less strain on public resources and it would be a positive assistance to this country—which has, as I say, lost 630,000 workers in the last four years, and nobody really knows why.

Lord True (Con): Obviously, the Government in their other policies would like to see people who are not economically active coming back into work. I must take issue with the noble Lord, who I often find myself in agreement with. Illegal working is not a victimless crime. It destabilises society and, although there are extensive controls in place, it remains, as he acknowledged, a primary pull factor for illegal migration. There is evidence that some of these criminal gangs are offering places to people whom they are trafficking, something which we need to stop. Businesses that employ workers illegally undercut their law-abiding competitors and may damage the local economy. There is tax fraud, carelessness about food standards and health and safety, and exploitation of the vulnerable, which we all detest. The fairness in protecting the public from that is important.

We are unrepentant that we intend to use instruments. We are increasing our ability to disrupt, investigate and prosecute the gangs. We will increase the number of investigators by 50%, which is 200 new people, and the number of illegal working raids led by Immigration Enforcement by a further 50%. We will look at data sharing with banks and building societies to stop illegal activity, as well as the issue of driving licences and illegal renting. The Government were considering and discussing how we can use these measures and entry points to economic activity to identify and catch unlawful migrants. In many cases, when we catch unlawful migrants in these activities we will catch the vicious traffickers who lie behind bringing them here illegally in the first place.

Baroness Hamwee (LD): My Lords, the large number of claims of modern slavery, larger than those in the impact statement of 2015, is a sign of the success of that legislation, because it means more crimes are being uncovered and reported. My question is about the Prime Minister's comment that, although he recognises that we need to talk to the UNHCR and the Red Cross—which have such an important front-line role in dealing with asylum seekers from conflict and dangerous areas—regarding safe and legal routes, that cannot be done until there is control of the border. Why is this sequential? Are not safe and legal routes part of the whole issue of controlling the border?

Lord True (Con): Both the Prime Minister and I have expressed the importance of safe and legal routes. We are seeking to take a range of actions at the same time. The Prime Minister was absolutely clear in his Statement that safe and legal routes are the other side of the coin to dealing with unsafe and illegal routes, which we are dealing with.

References have been made to the UNHCR statement, but I have read the whole statement and there was no sense of general condemnation of what the Government are doing. It commended and welcomed some things and it disagreed with others. Do not forget that the UNHCR has its own partnership with the Government of Rwanda to voluntarily relocate vulnerable migrants from Libya to Rwanda under the emergency transit mechanism. We must not think that this black and white, or good and bad; there are grey areas in this, and the UNHCR is using some of the mechanisms that have been criticised.

We are reforming modern slavery laws. They are important but they have been abused. When I referred to the numbers, I was indicating simply that there are larger numbers of people to process. We will seek to further tighten the modern slavery system by shortening the recovery and reflection period from 45 to 30 days, and we will clarify the reasonable grounds test. For example, as I said earlier, we will require a caseworker to have objective evidence of modern slavery, rather than mere suspicion. Our determination to secure protection generally for those who are victims of modern slavery did not begin with but is embedded in the unique Act that was introduced in this country by my right honourable friend Theresa May. That is something for which we will continue to strive and work.

Viscount Stansgate (Lab): My Lords, I ask the Minister to tell the House which part of this Statement the Government consider will be the most effective way to attack the criminal gangs who traffic in victims such as those who so tragically died at 3 am today.

Lord True (Con): My Lords, I hope it is every part of the whole package that has been put together—the Prime Minister announced it as a package, in a measured way—from internal policing to the creation of the small boat operation in the channel, to a range of checks and other measures. I have not been asked about it, but the Prime Minister attaches enormous importance to good diplomatic efforts and co-operation with other nations. Successful relations with President Macron have already led to good benefits, as has the re-creation of the Calais group. There is a very big operation under way, and I hope that it will all be brought to bear against the ruthless criminality to which the noble Viscount refers.

Genetic Technology (Precision Breeding) Bill

Committee (2nd Day) (Continued)

6.50 pm

Debate on Amendment 26 resumed.

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Baroness, Lady Bakewell, after that interruption. I thank her for seconding my amendment that Clause 42 not stand part of the Bill.

I find myself seeking new metaphors. We have all been through Henry VIII on steroids. I cannot remember which Bill I was talking about when I referred to Henry VIII on steroids with rockets strapped to his boots. Here, we now have Henry VIII on steroids with rockets strapped to his boots and placed in a catapult, because this is an utterly extreme Henry VIII clause. I

fear that noble Lords will feel we are having déjà vu all over again. In the last group of amendments, the noble Lord, Lord Rooker, quoted many of the reflections of the Delegated Powers and Regulatory Reform Committee's report. It is worth looking at paragraph 4, which states:

"The Bill contains 28 delegated powers in just 48 clauses."

It is not really surprising, therefore, that we are going to be hearing a lot of speeches which sound pretty similar.

I want to make a particular case for the removal of Clause 42. Subsection (1) states:

"Regulations may make supplementary, incidental or consequential provision in connection with any provision of or made under this Act."

Essentially, anything goes. I am not a lawyer, although I have learned quite a bit about law in the last three years. As I understand it, this clause says that the Minister can do whatever they like.

It may be said that Clause 42(3) states that this is under the affirmative procedure. I refer noble Lords to what happened yesterday with voter ID. It demonstrated just how effectively this House is or is not able to scrutinise secondary legislation. We do not have an effective power of scrutiny. This is the reality. We could just say that we could pass this Bill and then regulations could change anything we like—supplementary, incidental or consequential. If this is so, there is simply no way that Clause 42 should stay part of this Bill.

Baroness Parminter (LD): My Lords, I did not mean to speak on this group, but it deals with delegated powers and the powers the Government take upon themselves in relation to other bodies—in this case the national Parliament.

Since we met on Monday, there has been a development concerning the state of the Bill in the country more broadly about which I wanted to ask the Minister, and I think this is the best place to do it. Since Monday, when the Minister referred to the ongoing discussions with Scotland, Scotland has tabled a memorandum to withhold consent to this Bill when it becomes an Act. Although it has only so far been tabled, clearly, with the SNP in a majority in the Scottish Parliament, it will pass. The Minister talked about ongoing discussions. Can he tell the Committee what the Government's strategy is with regard to Scotland? Do they intend to try to reach consensus through the common framework, or to force the Bill through using the internal market Act?

Baroness Hayman of Ullock (Lab): My Lords, I am grateful to the noble Baroness, Lady Bakewell, for tabling her amendments in this group. They all seek to upgrade certain regulation-making powers in the Bill from the negative procedure to the affirmative. I am also grateful to the noble Baroness, Lady Bennett, for bringing forward her concerns about the Henry VIII powers which could be used in this Bill and to which other noble Lords have referred during our discussions.

The main thing for us to raise here is that, once again, we are concerned about the sheer amount of work being left for the months and years after the Bill makes it on to the statute book, and the lack of parliamentary involvement when these instruments are eventually brought forward. During Monday's debate, the Minister made it clear that it would take years to put the core regulatory structures in place and extend the regime beyond its original focus on crop plants. During this time, there could be significant changes such as new scientific analysis, changes in market conditions, developments in other jurisdictions and shifts in public perception.

The noble Baroness, Lady Bakewell, talked about the use of the negative procedure. The question then is, would making certain regulations subject to the affirmative procedure guard against all possibilities? It would not, but it would at least provide MPs and Peers with regular opportunities to share their views.

We have already had discussions about the welfare advisory body, including the form it may take and the functions it will fulfil. We know that colleagues across the Committee are understandably anxious about getting this right, yet the proposal is for the Secretary of State to designate key animal welfare responsibilities to an as yet unidentified committee or body through a negative SI.

I will listen to the Minister's response to these amendments with great interest and hope that, at the very least, we can have more information about this ahead of Report. The power to make consequential provision is a standard inclusion in legislation, but we also accept that drafting often makes the power appear unnecessarily broad. It would be helpful if the Minister could provide any examples of what would or would not be permitted.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I am grateful to those who have tabled these amendments. Before I reply to them, may I clarify a point I made earlier, as the noble Lord, Lord Winston, is in his place? When referring to CRISPR-Cas9, I was trying to respond to a point the noble Lord, Lord Cameron, made. That technology is fundamental to this Bill, and he was referring to where it took place. Of course, I meant to say that CRISPR will not be used on the farm. It is important to this Bill and will be used in laboratories that will have to be licensed under this mechanism.

Turning to the amendments tabled concerning changes to the parliamentary procedure for making regulations under certain powers in this Bill, I thank the noble Baroness, Lady Bakewell of Hardington Mandeville, for them, and I reassure her that these powers are administrative in nature and therefore do not require an increased level of parliamentary scrutiny.

Taking Amendment 26 first, the intended purpose of the power in Clause 4 is to prescribe details which are administrative in nature—for example, the types of persons who can be specified in a release notice, or the form such a notice needs to be given in. This is an important function as it will allow the Bill to operate as intended. Unnecessary scrutiny being applied to these administrative regulations through an affirmative procedure could delay the implementation of the Bill and reduce our ability to move quickly towards gaining the significant benefits the Bill has to offer. It would also make it more cumbersome for us to make technical adjustments to the requirements as to the form and

[Lord Benyon]
content of the release notice and any accompanying information, to reflect developments in technology and industry practice. We do not believe that debating such technical and administrative details would be a beneficial use of parliamentary time.

Turning to Amendment 33, Clause 11 is clear that an application will be required to include

"a declaration that the notifier does not expect the health or welfare of the relevant animal or its qualifying progeny to be adversely affected … by any precision bred trait".

It is also clear in this clause that the application will have to be accompanied by

"an assessment of the risks to the health or welfare of the relevant animal or its qualifying progeny"

and an explanation of the steps taken to identify these risks. These key requirements are set out on the face of the Bill. The delegated powers merely allow Ministers to prescribe further details in relation to these applications, which will be more administrative or technical in nature.

Regarding the amendment to Clause 18, I reassure the noble Baroness that a list of matters which could be included on the register is set out in the Bill. This list includes, but is not limited to, information relating to the release and marketing notices, reports from the advisory committees and enforcement notices.

This clause therefore enables information on a wide range of matters relating to precision-bred organisms to be made public, in the interest of transparency and public reassurance. Specific details of the information to be entered in the register are an administrative matter.

7 pm

The power in Section 122 of the Environmental Protection Act 1990, which enables the Secretary of State to prescribe particulars to be entered in the GM register, is similarly subject to the negative procedure. While it would, of course, be open to us to take a different approach to the register of precision-bred organisms, I do not believe we need a greater level of scrutiny in relation to the information to be entered on the public register regarding PBOs than we have for GMOs.

I will further reassure the noble Baroness that the provisions in Clause 22(3), which enable the Secretary of State to designate a committee or other public body to fulfil the role of the welfare advisory body, are also administrative in nature and therefore warrant the negative procedure.

I want to address a point that was made on Monday and again this evening. It relates to the personnel on the relevant committee. The appointments to this advisory body would be made according to the principles in the *Governance Code on Public Appointments*. Appointments would be made on merit from a strong, diverse field of high-quality candidates, whose skills, experiences and qualities have been judged to meet the needs of the welfare advisory body. It is misleading to give the impression that somehow there are conflicts of interest when we choose under very prescribed rules of government that have been widely accepted as being fair and open. The rules will be laid clear in the measures that we apply; the Nolan principles and suchlike.

I would not want to restrict people who have had experience in industry and who have current experience in industry—as long as we are open about it. It is important that the people who know about this and can advise government in the best possible way are on this advisory body, but of course there must be transparency as to their connections. I hope we have nailed the point that there is some means in the legislation that would allow for unfair access to policy and the governance of these measures.

As noble Lords will know, we intend to bring the provisions of the Bill concerning precision-bred animals into force once the regulatory system to safeguard animal welfare is established. The power in Clause 22(3) ensures that we can designate to the role of welfare advisory body the committee or other public body that is most suited to this role, come that time.

The designation of the welfare advisory body itself is a straightforward administrative matter and therefore it is appropriate for the regulations to be subject to the negative procedure. By making the designation in regulations, we will ensure that it is made in a public and transparent way, and noble Lords and Members of the other place will have the opportunity to review the regulations and to enter a prayer if they wish to debate them. I hope that has clarified the position, because it is a really important part of our deliberations tonight.

Finally, I shall move on to the question of whether Clause 42 should stand part of the Bill. The policy set out in this Bill will need to be reflected in other legislation that is not amended by it, particularly secondary legislation. Precision-bred organisms are currently regulated by numerous legislative instruments relating to GMOs that will need amending to reflect the changes made by and under this Bill. There are also references to genetically modified organisms in numerous legislative instruments that will need adjusting, for the same reason.

This power enables the Government to make these reasonable adjustments. The power cannot be used to make stand-alone substantive legislative changes. This power is needed to ensure that the provisions made by the Bill, and regulations made under it, fit effectively within the existing legal framework at the time when those provisions are brought into force, or those regulations are made, as the case may be. In the main, this will either be to remove precision-bred organisms from the scope of that legislation in England, such as genetically modified food and feed legislation, or to maintain the current position by updating references to GMOs and GMO legislation that covers both GMO and precision-bred organisms. While the power here is broad, it is one that is commonly found in Bills and can be used only for limited purposes.

To address the point raised by the noble Baroness, Lady Parminter, about Scotland, we will of course continue to engage via the common framework. We have regular official-level engagement and there is ministerial engagement through the interministerial group. Of course, it is for the Scottish Parliament to decide what it wishes to do in relation to this legislation. I am sure it will be listening to a lot of stakeholders, such as the Roslin Institute, James Hutton and NFU Scotland, as it makes its deliberations. So I can absolutely

assure her that engagement, from my department and from the Government, will continue at all levels. I hope that I have reassured noble Lords on these points.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the noble Baronesses, Lady Bennett and Lady Hayman of Ullock, and my noble friend Lady Parminter, who have taken part in this short debate, and I thank the Minister for his response.

While I was not expecting a rollover, I was hoping for some understanding that the use of the negative procedure for aspects of the Bill is not that appropriate. I understand that some of the clauses are technical and that some are to protect the health and welfare of animals, but I am not entirely convinced that that will happen under the Bill as it is currently set out.

On Amendment 46, if the register is open, why can it not be taken under the affirmative measure? I am slightly concerned about the personnel on the advisory committee; I understand that they will be appointed on merit and will have a strong skill set, and that some will have industry experience, but great care will need to be taken in considering whether there are conflicts of interest. Sometimes it is not always apparent what that conflict of interest is likely to be.

I also have to say that my heart sank when the Minister referred to the "numerous" statutory instruments that would have to come in order to allow the Bill to become law. Regulation is a really important part of this, and for the final say to be having to pray against something in order to get it debated is a retrograde step.

A number of NGOs and charities are concerned about the Bill, and that is significant. One way to reassure them is to make sure that negative instruments are kept to a minimum and that sections of concern are dealt with under affirmative instruments. Perhaps the Minister can reflect on these issues and come back with some movement by Report. In the meantime, I beg leave to withdraw the amendment.

Amendment 26 withdrawn.

Clause 4 agreed.

Clause 5: Restrictions on marketing of precision bred organism in England

Amendments 27 to 29 not moved.

Clause 5 agreed.

Clause 6: Application for precision bred confirmation

Amendment 30 not moved.

Clause 6 agreed.

Clause 7: Report by advisory committee

Amendment 31 not moved.

Clause 7 agreed.

Clause 8 agreed.

Clause 9: Revocation of precision bred confirmation

Amendment 32 not moved.

Clause 9 agreed.

Clause 10 agreed.

Clause 11: Application for precision bred animal marketing authorisation

Amendment 33 not moved.

Clause 11 agreed.

Clause 12: Report by welfare advisory body

Amendments 34 to 38 not moved.

Clause 12 agreed.

Clause 13: Issue of precision bred animal marketing authorisation

Amendment 39 not moved.

Clause 13 agreed.

Clause 14: Precision bred animal marketing authorisations: reporting obligations

Amendment 40 not moved.

Clause 14 agreed.

Clause 15 agreed.

Clause 16: Reviews and appeals relating to Part 2

Amendment 41 not moved.

Clause 16 agreed.

Clause 17: Restrictions on importation and acquisition of precision bred organisms in England

Amendment 42

Moved by ***Lord Rooker***

42: Clause 17, page 11, line 35, leave out "may" and insert "must"

Member's explanatory statement

This amendment is to ensure the Secretary of State is required to make regulations in line with similar provision on risk assessments in section 108 of the Environmental Protection Act 1990.

Lord Rooker (Lab): My Lords, I will again use the 19th report of the Delegated Powers Committee. Paragraphs 15, 16 and 17 relate to Amendment 42.

Clause 17 concerns the power to

"make provision for requiring a person to carry out an environmental risk assessment before they import or otherwise acquire"

[LORD ROOKER]

a precision-bred organism. Clause 17(1) gives the Secretary of State the power to make a negative procedure regulation that requires those who wish to import or otherwise to carry out an environmental risk assessment of damage to the environment as a result of importing. Paragraph 16 of the committee's report makes clear that the delegated powers memorandum provided by the Government said that this power

"allows the Secretary of State to make equivalent provision for such environmental risk assessments as is currently provided for under section 108(1)(a) of the Environmental Protection Act 1990 in respect of the import or acquisition of genetically modified organisms".

Paragraph 17 then says:

"However, section 108(1) of the 1990 Act imposes on those who wish to import or acquire genetically modified organisms a *requirement* to carry out an environmental risk assessment."

The previous paragraph said that it makes equivalent provision. It does not, because the provision in Section 108 is a requirement to carry out an environmental risk assessment. Clause 17 gives Ministers the discretion on whether to make the regulations that require an assessment to be carried out. There is no explanation in the memorandum for this, so it is not correct, as the memorandum given to the committee said, that it makes equivalent provision—it does no such thing.

The other two amendments in this group, Amendments 65 and 66, relate to Clause 32, on the power to make regulations that provide for enforcement measures in relation to failures to comply with requirements under Parts 2 and 3. Clause 32(1) gives the Secretary of State the power to make regulations that provide for a "compliance notice", a "stop notice" or a "monetary penalty notice". However, as the committee says at paragraph 41:

"We are surprised that clause 32(1) does not *require* the Secretary of State to make regulations that provide for such enforcement measures but … leaves it to the Secretary of State's discretion."

Again, the memorandum supplies no information or explanation for this. It is left to Ministers whether to enforce the provisions. That cannot be right. In a previous paragraph the memorandum said that it is the "equivalent provision". It is not.

7.15 pm

It cannot be right for Parliament to abrogate the power. These Bills are drafted by parliamentary counsel. My conclusion from the debates we had earlier this year in January, and will have again next January on *Government by Diktat*, is that parliamentary counsel should be renamed "government counsel". They are government employees located in the Treasury. They actually act against Parliament, because they constantly draft Bills, following instructions from Ministers, that remove powers from Parliament—not this House but Parliament—and give them to the Executive. That is what they are paid to do. It should be "government counsel", not parliamentary counsel. This is a classic example, with Ministers being given the power as to whether they enforce the provisions in the enforcement part of the Bill. That cannot be right.

The concluding paragraph of the report says that this "merits explanation", and that

"unless the Minister can provide the House with a convincing justification for this approach, the power in clause 32(1) is inappropriate in its current form and should instead require regulations to be made to ensure that the enforcement measures in question are put into place."

On this one, the Minister can say now, in Committee, "Yes, we'll do it."

Lord Winston (Lab): My Lords, it is wonderful to see my noble friend Lord Rooker when he is angry. When he is really angry he is even more frightening than this, as he was years ago, as I reminded him just now, over bees, when he was in the department.

Amendment 47 is very straightforward; I suggest that we replace the word "may" with "must". The reason for this is very straightforward; it will not take a moment or two. My noble friend Lord Rooker reminded me of what happened when this was looked at by the Delegated Powers and Regulatory Reform Committee and by the Constitution Committee. Again and again, they found the memorandum associated with the Bill and the Bill itself to be quite imperfect. This is a very good example. My noble friend has addressed that so I will not do any more. However, the question of inspection of premises is not one of "may" but one of "must". This is something we clearly could regard now. If the Minister feels diffident about it then no doubt we will bring this matter back again when we discuss the Bill on Report.

This follows perfectly normal practice. For example, it is interesting that the idea of Home Office inspectors, which the noble Lord mentioned during his speech earlier—or maybe it was on Monday; I forget now—is not in the Bill, but it probably ought to be, because this is clearly a very different area of regulation but for the same purposes. The Home Office generally is looking only at experimental stuff. This is interesting because the Bill covers experimental stuff, but it is seen as a livestock or farming issue in the main.

That is one of the problems that we have: there are certain things that are not in the Bill but should be, such as, as the Minister pointed out, the fact that there is no intention of using farmyards to do this research. That is fine. It is nice to have that said by the Minister but it really should be in the Bill. It is not something we can leave off. We will come to an amendment on it in due course.

It is vitally important that your premises are inspected, because so many minor things can make a very big difference to the work. That brings me to the sort of situation that I am in as a licence holder with the Human Fertilisation and Embryology Authority. I had my inspection about 10 days ago to look at my embryo lab; the requirement is that it can be used only for embryos because of the risk of contamination. It wanted to look, for example, at the detailed reports that I have on every single experiment that we have done there, as is proper. That is a mandatory requirement made by law, just as it should be in this Bill as well— because it is the same problem.

We have to say very clearly that inspections on this matter should not be a matter of discretion for the Secretary of State but "must" be seen to happen, and those reports should go back to the Secretary of State and be available. Certainly, in my own case with

embryos—and this would apply to my animal work, for example, although the noble Lord may not know this, because it came up under a previous amendment—if we modify a mouse, for example, in its genome, we are required to notify the modification to the Home Office after we have done it as part of our report. It is clear that those sorts of things are already well established in law, in laboratories of this kind, and the laboratories being suggested by the Bill would clearly be required to follow the same kind of process in law. I hope that that can be sorted out on Report, but for the moment I shall not pursue the amendment.

Viscount Stansgate (Lab): My Lords, I do not know whether the rules of the House allow me to intervene briefly to say that I congratulate the Delegated Powers and Regulatory Reform Committee on having identified this discrepancy, and I commend my noble friend Lord Rooker for having brought it to the Committee's attention. We are discussing this in the context of this particular Bill, but if we allow discrepancies like this through, it will have effects on other Bills—and for that reason I strongly recommend my noble friend's amendment. We may not divide on it today, but it is an issue that the House should consider later.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I do not intend to detain the Committee for long on this group of amendments, except to say that we support the noble Lords, Lord Rooker and Lord Winston, in their arguments, and the DPRRC has flagged up these issues. This is a vital Bill which could make a significant difference to the resilience of crops and plants; it is therefore necessary for it to be effectively and transparently regulated. Leaving some of these decisions to the whim of the Secretary of State is unwise; the Secretary of State "may" do as the Bill indicates, but they also may not. If they do not, what recourse will Parliament have to call them to account and ask about what advice or information they received not to implement the clauses under discussion? The Minister earlier referred to praying against regulations, but that is a fairly catastrophic step for anybody to take.

This is not to say that there is no trust in the ability of the Secretary of State to make the right decisions; it is more about having the reassurance in the Bill that the considerations "must" be carried out, not "may" be. Again, ensuring that farmers, producers and the public have confidence in precision-engineering products is vital, and these amendments help that to happen.

Baroness Wilcox of Newport (Lab): My Lords, I am grateful once again to my noble friends Lord Rooker and Lord Winston for their amendments and their useful introductions to them. While I would not want to incur the wrath of my noble friend Lord Rooker, I inform him and the Committee that, when I was leader of Newport City Council, we made Newport a bee-friendly city, which continues to have positive consequences for the bee population in the area.

We understand that, in practice, the use of "may" in relation to exercising delegated powers often means "must". At least, that is what Ministers tell us when they resist these amendments. However, in these specific areas, we understand the concerns raised by colleagues. We are putting a lot of faith in Ministers to follow through on commitments given from the Dispatch Box. As my noble friend Lady Hayman said on Monday, we trust the Minister's word, but this political year—a year like no other in my adult life—has highlighted the fact that both personnel and political priorities can change at short notice. Forty-four days is indeed a long time in politics for some participants at Westminster.

The Minister has not been able to give specific timetables for the SIs that will follow this Bill, but is he able to give some kind of indication on these regulations? That may provide the reassurance that colleagues seek. Given the travel woes faced by the noble Duke, the Duke of Montrose, on Monday, I wonder whether the Minister can comment on his Amendment 18, which was not moved, when responding to Amendment 65 because we remain slightly in the dark about how this new regime will be enforced.

Once again, many of these questions would not be necessary if the Government were able to bring forward more detailed legislation rather than relying on future processes and not allowing your Lordships' House to do what it does best—a detailed, line-by-line analysis of proposed government legislation in order to improve it.

Lord Taylor of Holbeach (Con): My Lords, I hesitate to speak immediately before the Minister, but I am rather moved by a nostalgic memory of times past when I was sitting on the Bench opposite and the noble Lord, Lord Rooker, was sitting here as Minister for Agriculture. I wonder whether he is also aware that occasionally we had arguments over "may" or "must". It is very nostalgic to be talking about "may" or "must" because it occurs in almost every argument about a Bill. I know that the noble Lord, Lord Rooker, was advised when dealing with a Bill written by the same parliamentary counsel whom he is now chiding about being unsuitably impartial to the needs of Parliament. Of course, all legislation has to start somewhere, and the parliamentary counsel starts where we want to end up. So I listened to the speech by the noble Lord, Lord Rooker, with a great deal of amusement and a certain amount of the nostalgia for the past, but I hope we can get past these things. This is a really good piece of legislation hoping to achieve a really important development in agricultural technology.

Lord Rooker (Lab): The difference is that, when I came into this House, I went to the Home Office. I had four departments, and two of them specifically said to me when I joined them, "Minister, we generally accept the conclusions and recommendations of the Delegated Powers Committee." I was told that that was the policy of the Government. I know we might have had the odd argument about "may" and "must", but the policy has completely and utterly changed since 2010.

Lord Winston (Lab): I think "must" is clearly in line with every other sort of legislation in this respect. Indeed, with regard to the Human Fertilisation and Embryology Authority, there have been occasions where people have been inspected on a standard inspection and have had their licence removed in consequence

[Lord Winston]
because they have not been providing the basic information that is required in the Bill. It is as simple as that. I do not think there should be an argument about it.

Lord Benyon (Con): My Lords, I thank the noble Lord, Lord Rooker, for raising an issue with Clause 17 because it gives me an opportunity to clarify its purpose and, I hope, to reassure him and other noble Lords that its intended application is limited. I am able to get passionate about certain subjects from time to time, and in future I will try to channel my inner Rooker when dealing with such matters because it is quite powerful when it happens.

7.30 pm

As the noble Lord observed, the Delegated Powers and Regulatory Reform Committee, on which he serves, also raised this clause in its report. I thank him and other members of the committee for their report. As I have already said, we will publish a full response in the usual way ahead of Report.

Part VI of the Environmental Protection Act 1990 already regulates the deliberate release of genetically modified and precision-bred organisms into the environment. It also contains provisions relevant to the use of genetically modified and precision-bred organisms in laboratories and other contained-use facilities.

The current regulatory regime on the use of GMOs and precision-bred organisms in contained-use facilities works well and we have no intention of changing it via the Bill. The focus of the Bill is to remove precision-bred plants and animals from requirements which currently apply to GMOs that are deliberately released into the environment and to use more proportionate regulatory measures in England.

Clause 17 provides powers that will enable us to replicate the requirements from Part VI of the Environmental Protection Act in relation to precision-bred organisms imported or acquired for use in contained facilities through regulations that would complement the Genetically Modified Organisms (Contained Use) Regulations 2014 and maintain the status quo.

As precision-bred plants and animals pose no greater risk than their traditionally bred counterparts, the requirements under the current contained-use regulations are appropriate. Our intention is that any regulations brought in under Clause 17 will be used only to maintain this situation, and therefore I submit that it is not necessary to amend this clause.

Additionally, I will respond to the noble Lord's Amendments 65 and 66. I assure the Committee that any obligation created by the Bill and regulations to be made under it will be backed by proportionate enforcement measures. Indeed, throughout Part 4 of this Bill the enforcement policy is described in significant detail, which I trust your Lordships will agree is a reliable indication that the power in Clause 32(1) will indeed be exercised.

These clauses already contain mandatory provisions in relation to each type of enforcement power, including safeguards such as requirements to provide for review and appeal of any such enforcement decision. I trust that this provides your Lordships with the information and assurance they need as to what each sanction will entail.

Furthermore, regulations under these powers are subject to the affirmative procedure, providing Parliament with the opportunity to further scrutinise the enforcement regime. The Government therefore feel that the provisions on enforcement in the Bill strike an appropriate balance between the need for flexibility on the one hand and certainty and accountability on the other.

Amendment 47 would place a duty on the Secretary of State to appoint inspectors. The Government want to empower the inspectorate which currently enforces the regulatory regime for GMOs to inspect premises and collect evidence where inspectors have a reasonable suspicion that these requirements and restrictions have not been complied with. This is the GM Inspectorate, which is part of the Animal and Plant Health Agency, an executive agency of Defra.

If inspectors find evidence of non-compliance, our intention is that they will be able to make use of a range of appropriate enforcement powers. They will be able to issue compliance notices requiring the relevant persons to comply with the appropriate requirements within a specified period. Inspectors will also be able to issue stop notices—for instance, to prevent marketing—if they reasonably believe that a precision-bred plant is being, or is likely to be, marketed without the requisite confirmation, until such confirmation has been obtained. Inspectors will also be able to issue fines.

Experts in other subject matters may need to be present at some inspections—for example, vets where an inspection relates to animals. Therefore, inspectors can be accompanied by such experts when the inspectors consider that necessary. These experts might need to have certain formal qualifications—for example, a veterinary qualification.

The noble Baroness, Lady Wilcox, asked about the timing and I hope I can give her an indication. It is expected that the statutory instruments laying down the technical details for the regulatory framework for precision-bred plants, as well as the substantive provisions of the Bill so far as they relate to precision-bred plants, will be brought into force within the next couple of years, and we are aiming to do it by 2024. We will not be introducing changes to the regulation of precision-bred animals until the framework to safeguard animal welfare in the Bill is developed and in place.

I hope that provides the noble Lord with the information and assurance he needs to withdraw his amendment.

Lord Winston (Lab): As I have already apologised for being a pest in the past, I will do this probably for the last time for some time—at least until Report. The Minister referred at some point today to Section 21, I think, of the Animal (Scientific Procedures) Act 1986, in which there is a licensing procedure which he kind of implied would apply to the scientific procedures with regard to these animals. If so, presumably that would cover this amendment; in fact, the amendment that I have proposed would be irrelevant because, if the Home Office is involved in offering to somebody a personal project licence, which presumably would have to be used in this sense, then I think there is no disagreement between the Minister and myself about Amendment 47. It would be covered, would it not? It is simply a question to ask the Minister.

Lord Benyon (Con): I hear what the noble Lord says and will reflect on it. This comes under a number of issues which I would like to engage noble Lords on before Report to see whether any changes are necessary. I would certainly be happy to have further discussions with him.

Lord Rooker (Lab): I beg leave to withdraw the amendment.

Amendment 42 withdrawn.

Clause 17 agreed.

Clause 18: Precision breeding register

Amendments 43 to 46 not moved.

Clause 18 agreed.

Clause 19: Inspectors

Amendment 47 not moved.

Clause 19 agreed.

Clause 20: Monitoring and inspection of Part 2 obligations

Amendment 48 not moved.

Clause 20 agreed.

Clause 21: Meaning of "Part 2 obligation"

Amendment 49

Moved by ***Lord Harlech***

49: Clause 21, page 14, line 38, leave out "relevant" and insert "Part 2"

Member's explanatory statement

This amendment makes clear that the reference to a relevant obligation in Clause 21(3)(a) is to a Part 2 obligation.

Lord Harlech (Con): My Lords, I will speak now to the minor and technical amendments to the Bill that the Government have tabled.

Amendment 49 replaces the reference to a "relevant" obligation in Clause 21(3)(a) with a reference to a "Part 2" obligation as defined in that clause. Amendment 64 similarly replaces the reference to a "relevant" obligation in Clause 29(4)(a) with a reference to a "Part 3" obligation as defined in that clause. These amendments aim to improve the clarity of this legislation.

Amendment 81 aims to make it clear in the provision on interpretation that references to the term "notifier", which is defined in Clause 6(1), may in certain circumstances be modified by regulations under Clause 11(9). This amendment aims to help breeders to navigate their way through this legislation. I hope noble Lords are confident in accepting these amendments.

Baroness Wilcox of Newport (Lab): We are grateful to the noble Lord for bringing forward these three straightforward amendments, which provide greater clarity to the clauses concerned. Diolch yn fawr a da iawn. The first step is often the hardest, and after my earlier critique I am happy to record some positivity—and it is not just because the noble Lord, Lord Harlech, is Welsh.

It is good that the Minister has amended the Bill at this early stage, as that paves the way for plenty more changes to be made between now and Report. We appreciate that ultimately he will not be able to move in all the areas we have discussed, or even all those where he may personally wish to give ground. That is politics: a question of priorities determined by our different political views. However, there are several areas where technical changes to the Bill would be useful and I urge him and the Bill team to look at again after Committee. We are happy to work with him and his officials, if that would be helpful. We hope that he will be open to such discussions once we have returned following the Winter Recess.

Amendment 49 agreed.

Clause 21, as amended, agreed.

Clause 22: Advisory bodies

Amendments 50 to 52 not moved.

Clause 22 agreed.

Clause 23: Advisory bodies: time limits etc

Amendment 53 not moved.

Clause 23 agreed.

Clause 24 agreed.

Clause 25: Precision bred animal marketing authorisation: adverse effects

Amendments 54 and 55 not moved.

Clause 25 agreed.

Amendment 56

Moved by ***Baroness Hayman of Ullock***

56: After Clause 25, insert the following new Clause—

"Release and marketing of precision bred animals

A person may not give a release notice to the Secretary of State in relation to the release of a precision bred animal (see section 4(1)(a)), and no precision bred animal marketing authorisation may be issued (see section 13(1)), until—

(a) 12 months have passed since the date of the establishment of the Animal Sentience Committee under section 1 of the Animal Welfare (Sentience) Act 2022, and

(b) 6 months have passed since the date on which the Animal Sentience Committee has made to the Secretary of State a report on the provisions of this Act."

Member's explanatory statement

This new Clause would delay the release of precision bred animals for at least 12 months after the Animal Sentience Committee established under the Animal Welfare (Sentience) Act 2022 has been established and at least 6 months after the Committee has reported on the impact of the Act on animal welfare.

Baroness Hayman of Ullock (Lab): My Lords, I have two amendments that make up this group. First, I will look at Amendment 56. Clause 10 defines a relevant animal as a vertebrate for the purposes of the welfare protection measures in Clauses 11 to 15. This is in line with the definition of an animal in the Animal Welfare Act 2006. With Amendment 56, I am interested in looking at the relationship between the Bill and the Animal Welfare (Sentience) Act 2022, which some of us were involved with. I thank my noble friend Lady Jones of Whitchurch for her support in this. That Act defines an animal as

"any vertebrate other than homo sapiens … any cephalopod mollusc, and … any decapod crustacean."

Noble Lords may remember that during the passage of that Act, we debated the definition, particularly regarding the scientific evidence for the sentience of cephalopod molluscs and decapod crustaceans, and eventually they were included in that definition. Our concern is that, despite that, Clause 10 continues to define animals only as vertebrates. We also note that the clause does not exclude Homo sapiens explicitly: my noble friend Lord Winston has previously made that point. Basically, what we are trying to achieve here is to align the definitions in the Bill with the most recent piece of relevant legislation that has gone through the House.

The clause also makes provision for the Bill's definition to be extended to include invertebrates if the Animal Welfare Act 2006 is extended to include them. Therefore, we have a rather confusing situation where we have two different definitions of animal in law, one from the 2006 legislation and one from the very recent legislation. As an aside, given that the Government's aim with the Animal Welfare (Sentience) Act is to recognise the sentience of animals in law, it is kind of surprising that the Animal Welfare Act has not been extended to reflect the Government's latest position on this. Regardless of that, we think that the Bill should use the most up-to-date definitions and allow for any new legislation to be properly established in this area.

My noble friend Lady Jones of Whitchurch mentioned at an earlier date the situation regarding the animal sentience committee. The Minister confirmed that it does have a chair, but it is not yet fully established, and the Minister did not adequately answer the question as to when we are likely to see it up and running. What is the point in having a chair if you have no committee?

7.45 pm

I also acknowledge that the Minister has said that the elements of the Bill regarding animals are going to take at least two to three years to be developed, even though there is nothing in the Bill to ensure that this happens. My question to the Minister, therefore, is: why did the Government not wait for the animal sentience committee to be established and have time to report on the Bill before introducing it? If they really wanted to recognise the sentience of animals, they would prioritise the committee's establishment before pressing ahead with legislation that would have a real and significant impact.

That is why we have tabled Amendment 56, which would delay the release and sale of precision-bred animals until at least

"12 months have passed since the date of the establishment of the Animal Sentience Committee under section 1 of the Animal Welfare (Sentience) Act 2022, and … 6 months have passed since the date on which the Animal Sentience Committee has made to the Secretary of State a report on the provisions of this Act."

The Minister again said that it did not matter because it was going to be two to three years, but it would be extremely helpful if it was actually on the face of the Bill so that we could have security about that.

Amendment 79 would insert additional subsections into Clause 43 with regard to the environmental principles of the Environment Act 2021 and the non-regression principle laid out in the 2020 trade and co-operation agreement between the UK and the European Union. This is important because it is about upholding the standards that we have committed to in both domestic legislation and international agreements. Basically, it is about upholding the promises that we have made.

The first of these relates to the Environment Act, specifically the Government's obligations under Sections 17 to 19. Section 17 states:

"The Secretary of State must prepare a policy statement on environmental principles"

to be interpreted and applied in the making of government policy. Section 17(5) lays out a definition of environmental principles. This includes:

"the principle that environmental protection should be integrated into the making of policies … the principle of preventative action to avert environmental damage … the precautionary principle, so far as relating to the environment … the principle that environmental damage should as a priority be rectified at source, and … the polluter pays principle."

We had extensive discussions during the passage of the Environment Act on these issues.

Section 18 details the timeframe for the policy statement, and Section 19 details the obligations that Ministers are under once the statement is finalised. Section 19(1) states, for example:

"A Minister of the Crown must, when making policy, have due regard to the policy statement on environmental principles currently in effect."

The problem is, as far as I am aware—the Minister may be able to tell me otherwise—that the Government are yet to finalise the statement. A draft was published in May this year, and we debated it by virtue of a take-note Motion tabled by the noble Baroness, Lady Parminter. The Government then confirmed that there would be an implementation period once the final version had been laid, to allow government departments to prepare for this new duty. However, I cannot find anything that suggests that a final statement has been published. What progress has been made since our debate before the summer?

Our Amendment 79 would ensure that regulations under the Bill were made in accordance with those environmental principles. It would ensure that no regulations may be made under the Bill unless the policy statement has been finalised and laid before Parliament. Ministers are then under an obligation to pay due regard to it.

The second element of this amendment concerns Article 391 of the trade and co-operation agreement between the UK and the EU. Chapter 7 covers environment and climate. It defines environment levels of protection as

"the levels of protection provided overall in a Party's law"—

that refers to the parties to the agreement—

"which have the purpose of protecting the environment, including the prevention of a danger to human life or health from environmental impacts".

The TCA then lists some specific examples, some of which would concern the Bill. These include,

"the protection and preservation of the aquatic environment",

and,

"the management of impacts on the environment from agriculture or food production".

Each party in the agreement—the EU and the UK—is committed to

"the principle that environmental protection should be integrated into the making of policies"

as well as to the precautionary approach and the principle

"that environmental damage should as a priority be rectified at source".

Article 391 sets out the rules on non-regression. It allows each party

"to determine the environmental levels of protection and climate level of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments".

However, it also aims to prevent either party weakening environmental legislation below the levels in place at the end of the transition period.

What concerns us is that the non-regression rules allow the UK to argue that it is allowed to change its regulation on precision breeding to create the new category that we are discussing, that it can do so safely and that there is an environmental case for doing so. However, we could argue that doing so poses environmental risks. Although the Bill attempts to manage those, and we broadly agree they could be managed, we also believe that the safeguards need to be strengthened, because there are potential grounds for disagreement.

It also seems that the EU could make a determination on how the UK has moved, carry out an assessment itself on the balance of risks and benefits and make a judgment on whether we have adhered to the non-regression rule. Given that we trade with the EU extensively, and this element of the TCA explicitly references impacts on trade, I hope the Minister will be able to explain the Government's assessment of how the Bill will interact with the TCA, whether parity is maintained, and whether there will be any trade repercussions as a result.

Baroness Parminter (LD): I rise to support both amendments in the name of the noble Baroness, Lady Hayman. She asked the Minister two excellent questions: first, we have a chair for the animal welfare sentience committee, but when are we going to get the rest of the members? Will it be before Christmas? Her second excellent question was: when are we going to see the environmental principles policy statement, because we still have not got it? When the Secretary of State came before my committee a couple of weeks ago, there was the usual—how should one put it?—open-ended commitment to when it might come.

This is becoming a major issue in this House. It is not just an issue for this Bill, where there is a direct correlation between the duties that Ministers would have to follow if the environmental principles policy statement was in place, but for every other piece of legislation that we are looking at. I see the noble Lord, Lord Coaker, in his place. We have been debating the issue of the Procurement Bill. Billions of pounds of government money is spent every year on procurement and, as it stands at the moment, there is no obligation on Ministers to take into account the targets that this Government say they want to deliver, because the EPPS is not in its place.

The reason I particularly want to pick up on this, rather than just to have a rant, is to say that it is not just a question of when the EPPS is laid. What is the Government's thinking about the delay that they then wish to put in place between that and when the Ministers have to have due regard to it? They have said consistently that, once it is laid, the Government will allow a time for Ministers to prepare themselves to undertake these requirements to have regard to the environmental principles. So when are we going to get the draft EPPS? Are we going to get it before Christmas?

Secondly, have the Government come to a fixed view about the delay between once it is laid and when it will be binding on Ministers? If it is going to be more than a year before it is binding on Ministers, it is not just this Bill, the Procurement Bill and others, but a host of other Bills where the Government say they are committed to their environmental principles but there is no binding commitment on Ministers to have to account for that.

Baroness Jones of Whitchurch (Lab): My Lords, I want to follow up very briefly on the two noble Baronesses' excellent contributions. I have a simple question, which goes back to the earlier amendment of the noble Baroness, Lady Parminter, about what the role of the animal welfare committee might be. At that time, the Minister who replied said, "Well, it could be a new committee or an existing committee". My question now is: have we decided whether it is going to be the animal sentience committee? All the discussion seems to be around that, but we have no certainty. It could be a completely different committee, so we might be chasing a rabbit here that is going in the wrong direction because the Government have something else in mind. It would be helpful if the Minister could clarify what committee it will be, and when we will know.

Lord Harlech (Con): My Lords, the amendment proposed by the noble Baroness, Lady Hayman, is similar to amendments put forward during Committee and Report in the other place. As the Government explained then, the Animal Welfare (Sentience) Act received Royal Assent this April and we are actively working to establish the animal sentience committee. As my noble friend the Minister said, the chair, Michael Seals, has already been appointed and further appointments will be announced shortly. It will be for the committee to agree its workplan and timescales; this will be its priority.

We expect it will be some years before precision-bred animals are brought to market so, de facto, the animal sentience committee will be established more than 12 months prior to the first precision-bred animals coming to market. The Government were also clear during the passage of the sentience legislation that we

[Lord Harlech]
would not dictate the animal sentience committee's workplan. It will be for the committee, once established, to decide which policy decisions it wants to scrutinise, and its expert members will be best placed to know where they can add value.

In response to Amendment 79, in the names of the noble Baronesses, Lady Parminter and Lady Hayman, the Government have a strong record of commitment to the environment and with this Bill we are continuing to uphold that tradition. The provisions in it do not have the effect of weakening or reducing environmental protections; in fact, quite the opposite. Section 19 of the Environment Act 2021 provides that Ministers must

"have due regard to the policy statement on environmental principles".

Defra has already published and laid a draft version of this statement before Parliament for a debate.

We have considered the feedback from parliamentary scrutiny of the draft policy statement that concluded in June. We hope to agree the final policy statement in the coming weeks and to publish it in early 2023. Once the final policy statement is laid before Parliament and published, there will be an implementation period to allow departments to prepare for the duty before it comes into force. As we are making good progress in this regard, the amendment proposed will not be needed by the time that regulations under the Bill come into force.

In line with the requirements in Section 20 of the Environment Act 2021, we have reviewed whether the Bill reduces current environmental protections. As part of this process, we have considered scientific advice provided by independent scientific experts such as ACRE, the Royal Society of Biology and the Roslin Institute. They concluded that plants and animals developed through precision breeding pose no greater threat to the environment compared with those developed through traditional breeding, so long as the traits they possess are in line with those that could arise naturally. This is in line with the key scientific principle that it is the overall genotype and phenotype of an organism that describe risk, not the method by which it was produced. Based on this assessment, we have concluded that the Bill does not reduce current environmental protections. This also aligns the Bill with our non-regression commitment to the EU on environmental protection.

ACRE will be conducting case-by-case assessments of any precision-bred organism before it enters the market to ensure that any genetic changes made could have occurred through natural breeding or natural transformation. Provided the plant or animal passes this assessment, the risk is considered the same as if it were produced using traditional processes. As I have mentioned, in countries that have already taken a more proportionate approach, a wider range of different traits have been developed. Many of these could have positive impacts on the environment.

I emphasise that the EU itself intends to reform its own regulatory system for plants to make it more proportionate, as early as 2023. The initial results are telling, as

"four out of five (1732; 79%) participants in the consultation found that the existing provisions of the GMO legislation are not adequate".

I hope I have provided some clarity to enable the noble Baroness to withdraw her amendment.

8 pm

Baroness Parminter (LD): Before the noble Lord sits down, he very kindly responded to our question about when the EPPS should be laid before Parliament, which is early 2023. However, he did not give any detail on the implementation period, which is expected to allow Ministers to prepare for that. Effectively, the early 2023 date is meaningless, because there could be an implementation period of one or two years. Is the noble Lord expecting the implementation phase for Ministers to take account of the EPPS to be a couple of months, six months or a year?

Lord Harlech (Con): All I can say at this stage is that it will be as soon as possible.

Baroness Hayman of Ullock (Lab): I thank the noble Lord for ploughing through that. I want to make the same kind of point the noble Baroness, Lady Parminter, made. All the while we do not have anything published and we do not know about implementation periods, the whole thing is a bit pointless. How can you have "due regard" to something you do not have in front of you, and if you do not know the timescales? It is quite frustrating. The sooner we can get all of this sorted and the Minister can give us some more timescales and dates, so we know what is going on, the better. I am sure we will be returning to these issues on Report, but in the meantime, I beg leave to withdraw the amendment.

Amendment 56 withdrawn.

Clause 26: Regulation of food and feed produced from precision bred organisms

Amendment 57

Moved by ***Baroness Bennett of Manor Castle***

57: Clause 26, page 16, line 31, leave out "may" and insert "must"

Member's explanatory statement

This amendment would require the Secretary of State to regulate the placing on the market in England of food and feed produced from precision bred organisms.

Baroness Bennett of Manor Castle (GP): My Lords, I will also speak to Amendments 58 and 59, which are also in my name, and very briefly to the others in this group. I thank the noble Baronesses, Lady Parminter and Lady Hayman of Ullock, for offering their support for Amendments 57 and 58.

Regarding the other amendments in this group, we have not heard their introductions yet, but I look forward to hearing from all the noble Lords who have tabled them. The noble Baroness, Lady Jones of Whitchurch, has identified the need for the FSA to have adequate resources, which is something we often butt up against in this House as we see the Government failing to deliver on their legal requirements. The Minister's answer regarding the food and feed register in the probing amendment tabled by the noble Baroness, Lady Hayman, will be very interesting. We also owe a

special vote of thanks to the noble Lord, Lord Rooker, who I understand is doing sterling Sherpa work for the Delegated Powers and Regulatory Reform Committee.

In some ways, my three amendments overlap with the next group, in that they address being able to regulate to ensure that we can trace and identify so-called precision-bred organisms and products from them. This and labelling very much go together.

It is interesting to look at some of the public views on this. The Food Standards Agency study, *Consumer perceptions of genome edited food*, published in July 2021, found that 77% of those questioned said that it would be "very important" when buying a food item to know that it has been precision bred. It was very important to have this knowledge before purchase. We cannot label such items unless we can trace them. Here, we have the question of giving the public certainty. If those who wish to promote this technology and its release are going to get public acceptance, there has to be traceability. Thinking about what has happened with so many issues in our food system—the horsemeat scandal, for example—if there is not traceability, people do not have the trust. People now expect that traceability.

It is also worth pointing out, as does the Soil Association's briefing on the Bill, that not mandating traceability or labelling risks creating a major barrier to UK trade. The Government have said that they expect the EU to update accordingly but, of course, we do not know what will happen; the EU may well adopt a more restrictive scientific approach to defining which organisms might not be considered GMOs. This would be disastrous for exports. As the noble Baroness, Lady Parminter, said earlier when discussing the internal market and relations between the nations, if there are no mechanisms in place to ensure traceability and separation, organic businesses in particular are likely to suffer severe disruption, or even complete refusal from EU countries and other countries to import products. I am aware that noble Lords may think that, when they walk into a UK supermarket, they do not see that much organic produce. In many continental countries, if they walk into a supermarket they will of course find vastly more organic products. That is an increasingly determined part of the market. This is a really key issue. Some of the farmers who are taking many of the most innovative and exciting agroecological steps are our organic farmers.

We have three amendments here, the first two being part of the perhaps slightly dreaded debate on "may" versus "must". The first amendment says that there must be regulation; it is clear that there is public desire for that, and also a strong argument if you want only to argue for money. The second refers to "may", "must" and "is"; there must be marketing authorisation and the securing of traceability. Then, in Amendment 59, we essentially come back to risk assessments. This revives the debates that we have already had, so it is perhaps not worth going back over them at great length, but the issue of risk was raised very clearly and stressed in the first contribution today from the noble Lord, Lord Winston.

Following on to a degree from the previous question asked by the noble Baroness, Lady Parminter, I refer to Amendment 59. Where has the precautionary principle gone? I would very much like the Minister to set out where the Government now place the precautionary principle; it would be interesting to know. I beg to move.

Baroness Jones of Whitchurch (Lab): My Lords, Amendment 60 in this group is in my name; I will speak to it relatively briefly.

First, I thank the chair of the FSA, Professor Susan Jebb, for her helpful meeting with Peers about this Bill last week. We covered a number of issues including labelling, safety and enforceability. I listened carefully to her advice, which was extremely helpful.

However, this amendment raises concerns about the resources and capacity of the FSA to take on the additional functions envisaged in the Bill. It is a probing amendment. I would welcome some reassurance from the Minister that the FSA is in a good position to meet the demands set out in this Bill in a meticulous and timely fashion. I raise this because we know that, like many public bodies, the FSA is not in a great position financially. At its last meeting, the CEO reported that, although the budget for next year would not be cut, there would be no extra money for inflation; as we know, that is in effect a cut in income. She also reported that staff are feeling overwhelmed by the relentless pace of and increase in different demands.

As a result, the FSA has already identified key areas of its existing work to be reduced, paused or stopped. My own union, UNISON, is already reporting that the FSA is removing many daily meat inspections in abattoirs, for example. The sector is facing huge food safety challenges, for example from the fall in the number of inspections of food businesses and the ongoing delay in establishing proper import controls for high-risk food and feed from the EU. These are all pressures with which the FSA is already grappling. Incidentally, it is also having to divert resources to assess 150 pieces of EU legislation before the retained EU law deadline of December 2023.

My question for the Minister is a genuine one: in the light of all these diverse pressures and the fact that there does not seem to be any more money around, can he assure us that the FSA has sufficient resources and in-house expertise to take on another complex regulatory role when it already faces so many challenges? I look forward to his response.

Lord Krebs (CB): I thank the noble Lord, Lord Rooker, for allowing me to ask a brief question. The noble Baroness, Lady Jones of Whitchurch, asked an important question about resources for the Food Standards Agency. The noble Lord and I are both former chairs, so we know a bit about how it operates. I will add a little twist to the question. If the FSA will not be given additional resources to fulfil these duties which we envisage in relation to this Bill, can the Minister tell us which activities the FSA will have to stop to re-divert resources for precision breeding?

Lord Rooker (Lab): I thoroughly endorse that question. This is probably not the night to go into that area, but the fact of the matter is that, to the best of my knowledge, the meat industry remains subsidised by the taxpayer. We have never got full cost recovery. It is

[Lord Rooker]
a huge industry—£6 billion—so we are not talking about a few little abattoirs. The industry has been subsidised for years, with a free management service provided by the Food Standards Agency. However, that is not my purpose.

Regarding the clause stand part notices in this group, it is always good to be learning new things: I did not know that you could not put an amendment down to take out a part of the Bill—it is not something that I had ever tried to do in the past—but you cannot do it, so you need to list the clauses. The reason for doing so is given in the19th report of the Delegated Powers and Regulatory Reform Committee, paragraph 30 of which suggests that Part 3 of the Bill is quite unusual because it

"provides for the regulation of food and feed produced from PBOs. It consists of skeleton clauses: the provision on the face of the Bill is so insubstantial that the real operation of Part 3 would be entirely by the regulations made under it."

I will not go through the whole report at this time of night—there is no need—but I will highlight a couple of paragraphs from the committee's report. The memorandum supplied by the department is referred to, which justified these clauses which are so insubstantial. Paragraph 35 of the committee's report says:

"We find these justifications far from convincing."

It points out that the *Guidance for Departments on the Role and Requirements of the Committee* states:

"Skeleton legislation should only be used in the most exceptional circumstances. Where the government decide that such exceptional circumstances apply, the delegated powers memorandum should make an explicit declaration ('a skeleton legislation declaration') that the bill is a skeleton bill or clauses within a bill are skeleton clauses. Such a declaration should be accompanied by a full justification for adopting that approach, including why no other approach was reasonable to adopt and how the scope of the skeleton provision is constrained."

That is paragraph 9 of the guidance to departments—something that Defra has clearly decided to ignore in this case.

8.15 pm

The committee's report says that the delegated powers memorandum

"states that clauses 26 and 28 cover subject-matters 'of great interest to Parliament'—and it acknowledges the interest that Parliament is likely to have in regulations made under clause 27—but it fails to include a skeleton legislation declaration or a full justification for the skeleton provision in those clauses."

The conclusion of the Delegated Powers Committee is that it considers that

"the Government have failed to justify the inclusion of skeleton clauses in Part 3 of the Bill that leave it entirely to ministerial regulations to determine the substance of the regulatory regime that is to govern the placing on the market of food and feed produced from precision bred organisms".

The Minister has to justify the placing on the market of that food and feed. Feed never gets the pressure that food does—it is not politically sexy—yet one-third of the crops we grow are for animal feed.

In the past, we have had lots of problems of misusing feed. We are waiting for another crisis—and then of course people will take an interest. The reason why the FSA was set up is that there was a crisis that was not dealt with because the department was too involved in providing benefits to the producers and forgetting the consumers. In this case, consumers are entitled to know and trust that the food and feed produced from precision-bred organisms is safe, but how can they if we are just dealing with skeleton clauses and we have government by diktat? Of course, that was the title of a report last year and it is what we have—*Government by Diktat*. Could the Minister explain to us why they have decided to introduce skeleton clauses but not admit in the delegated powers memorandum that those clauses are in the Bill?

Baroness Hayman of Ullock (Lab): My Lords, much has been said during our debates about the strength of the food and public health measures in the Bill but also about the fact that the Food Standards Agency is going to have a role to play in ensuring that any precision-bred organisms that reach our supermarket shelves are adequately regulated.

Our concern is about the wording as it currently stands because, although it confers on the Government the option to create a provision for regulating the placing on the market of food and feed produced from precision-bred organisms, it does not make that mandatory. In other words, although the Bill makes the regulation of precision-bred food and feed a possibility, it leaves it open to the Government not to take up that power should they not desire to do so.

That is why I have added my name to Amendment 57, of the noble Baroness, Lady Bennett, which would change that subsection's language from "may" to "must" so that the Government would be mandated to take up the power; it would not be an option—and likewise with her Amendment 58. I thank her for her thorough introduction to her amendments.

We also support Amendment 60, in the name of my noble friend Lady Jones of Whitchurch. This part of the Bill proposes to introduce powers that will empower the FSA to create a proportionate framework for regulating precision-bred organisms. If approved, the framework will form the basis upon which precision-bred food and feed products are to be authorised and placed on the market in England. That is one reason why I tabled Amendment 63; I felt it was important that we understand what preparatory work has been undertaken on the planned food and feed register and whether there is likely to be any further consultation on it.

As my noble friend Lady Jones has said, the FSA is already under financial and resource pressures. The noble Lord, Lord Krebs, asked an important question: what happens, what are the implications, if there are no new resources for the FSA? My noble friend Lord Rooker raised some serious and important points and questions that need to be answered. I will be interested to hear the Minister's response to those points.

Lord Benyon (Con): I am grateful to noble Lords and I will start by answering some of the points that were raised. First, I make it clear to the noble Baroness, Lady Bennett, and all noble Lords—I think we are all interested in this—that the precautionary principle is at the heart of the Environment Act and our desire to reverse the decline in biodiversity and the tragic loss of

species, with no net loss by 2030, and our provisions in the 25-year environment plan. I am not sure that the precautionary principle in recent decades has been particularly well used in relation to what it was originally defined as, and we want to get back to making sure that we are committed to a proportionate, science-based regulation that protects people, animals and the environment.

On the question of the Food Standards Agency and its resourcing, I have had regular meetings with the chair of the FSA and other senior officials as we have progressed this Bill through both Houses, and I have been assured that precision breeding will remain an important area of work now and in future and, as such, the need to meet continuing resource requirements to support that work will be taken fully into account in future spending review bids.

On the point that the noble Lord, Lord Rooker, raised about a skeleton Bill, I fear that I may excite him again, but I shall say what I believe to be the case. The delegated powers are quite specific and technical in how they are intended to be used, so I would say that this is not a skeleton Bill. It has powers to supplement the principal policy measures that are set out in the Bill. I have some experience in the other place, and in my short time here, of legislation and how it can be Christmas-treed by MPs and others. I want to make sure that this is a precise piece of legislation, with as much in the Bill as can be, and that the powers that lie within it are technical and administrative.

I turn, first, to Amendment 57. As it stands, the Bill grants the necessary power to put in place a new regulatory framework for food and feed produced from precision-bred plants and animals. This will allow the FSA to continue to ensure that the food that we eat is food that we can trust. Until this new regulatory framework is in place, food and feed produced from precision-bred plants and animals will continue to be regulated under the regulatory regime for GM food and feed. So I can assure noble Lords there would not be a regulatory gap in relation to these products as a result of this Bill.

The FSA has published key papers over the past few months, giving details of its proposals on how food and feed produced from precision-bred organisms will be regulated. Noble Lords will also be aware of the support from the FSA board for this Bill and the letters we have received from the chair of the FSA board on this matter. The FSA has commissioned independent scientific advice from the Advisory Committee for Novel Foods and Processes, the FSA's independent scientific advisory committee, to determine the appropriate means of regulating precision-bred food and feed to ensure that measures are in place to safeguard consumers' safety in relation to food that they eat. The advice will recommend the criteria for determining how food and feed produced from precision-bred organisms will be assessed. In addition, scientific advice will be provided on the technical information that developers will need to provide to enable assessment under the new framework by the FSA. The Bill should not pre-empt this advice or unduly restrict our ability to implement the most suitable regulatory framework for these products.

Regulations setting up the regime developed by the FSA will also be subject to the affirmative procedure and would therefore need to be debated and approved by both Houses of Parliament. The FSA is committed to food safety and to developing a system that would be put in place by the Secretary of State, using these powers in a proportionate way that both supports innovation and protects consumers. This will deliver a proportionate regulatory framework.

I turn to Amendment 58 and reassure noble Lords that there are already well-established provisions in existing general food law that secure the traceability of all food and feed throughout the supply chain and assist with its recall or withdrawal from the market when it may be proved unsafe. Businesses producing or marketing food and feed produced from precision-bred organisms will need to comply with this existing law. The Bill gives Ministers the option to impose, by regulations, specific requirements to enhance traceability of food and feed produced from precision-bred organisms beyond existing traceability requirements. This provides flexibility to make adjustments to meet any future needs that are not covered by general food law. The FSA will advise Ministers in this regard and ensure that proposals are subject to a public consultation before any such measures are implemented.

I also thank the noble Baroness, Lady Bennett of Manor Castle, for Amendment 59. The primary policy objective of the Bill is to ensure that plants and animals developed using precision breeding, and food and feed produced from them, are regulated proportionately to risk. To do this, the Bill and the regulations to be made under it would remove precision-bred plants and animals, and food and feed produced from them, from the regulatory requirements applicable to genetically modified organisms. However, I take on board the noble Baroness's concerns around thorough risk assessment and reassure her that any risk-assessment framework will be based on robust scientific advice provided by the Advisory Committee on Novel Foods and Processes.

The provisions in Part 3 of the Bill will allow the FSA to design a framework that adequately responds to the risk profile of precision-bred organisms and provide consumers with food they can trust, based on independent scientific advice. Detailed proposals for the future framework will be subject to full public consultation, as is required under food law, and the detailed scrutiny of Parliament through the affirmative process.

I turn now to the additional amendment from the noble Baroness, Lady Jones—Amendment 60. Following the UK's exit from the EU, the FSA has expanded the expertise of its independent scientific advisory committees to assist with considering the range of possible food safety risks posed by new and existing technologies. This is reflected in the composition of the ACNFP and a new subgroup of that committee, which was formed to consider these issues. This committee can bring in wider experience where specific issues arise.

The FSA is committed to food safety. We have two former chairs of it in this Chamber and they can assert this. It has been active in bolstering the resources of its scientific advisory committees and I am satisfied that they have sufficient resources and expertise to fulfil their intended functions in relation to regulating the placing on the market of food and feed produced from

[Lord Benyon]
precision-bred organisms, including undertaking risk assessments of food and feed produced by precision-breeding technologies.

Lord Rooker (Lab): I am reluctant to intervene, but there is something I want to ask. Would the Minister agree to provide, by Report, an analysis of the unsung heroes of food safety in this country—the environmental protection people in local government? The FSA works through local government. It audits the activities of food safety in local government. That is the Achilles heel, simply because of the cuts in local government. By Report, could the Minister give us details or produce a factsheet of the latest assessment of the performance of local government food and feed inspection—they tend to forget feed—so we can look at it?

Baroness Jones of Whitchurch (Lab): I have something to add to that, very briefly. I hear the Minister when he says that there is a scientific committee overseeing this, but we are talking about the scientists who will do the day-to-day work. Every time a request comes in, it is they who will have to do the graft of research and analysis. There might be people to give an overview but are there the people on the ground to do the work?

8.30 pm

Lord Benyon (Con): The noble Baroness is absolutely right. I was referring to the capacity of the FSA to have the right information to feed through to precisely the people she is talking about. I am assured that it has the resources necessary to do this.

The noble Lord, Lord Rooker, is also right. The unsung heroes are very often the sometimes underappreciated food safety and trading standards officers in our local authorities. I am wondering—I might have to have a discussion with the noble Lord before Report—whether they would have an application here for precision bred-food. That lies at the heart of what the FSA does and there is a question around whether it goes through to what happens in local authorities. We will come on to talk about labelling in a moment, but I think this traceability element is covered by the FSA. I am not sure how much more work we are going to require of local authorities in order to deliver this, but I am happy to have further discussions with the noble Lord.

Lord Krebs (CB): I want to follow up on that point. We will come to it in a moment when we discuss labelling, because I will mention it again then, but the pressure on local authorities will be more through trading standards than through environmental health. The noble Baroness, Lady Bennett of Manor Castle, raised a point about traceability and authenticity, and that is really the job of trading standards and public analysts, with their analytical methods of determining the authenticity of food. That might be where the pressure applies in local authorities, rather than with EHOs.

Lord Benyon (Con): I was uncertain about the point that the noble Lord, Lord Rooker, was making, but I take the noble Lord's point seriously. In our discussions with the FSA, I will make sure that all actors in this field are engaged and understand their responsibilities.

Lastly, in relation to the amendments to Part 3 of the Bill, I will discuss Amendment 63. The FSA is fully committed to establishing and maintaining a register of food and feed produced from precision-bred organisms in the best possible way. The FSA already maintains similar registers for other regulated products that communicate to stakeholders the decisions made by the Secretary of State to authorise regulated products, including feed additives, smoke flavourings, and GMOs for food and feed uses. The register relating to food and feed from precision-bred organisms will be incorporated into this framework. It will give a comprehensive record of precision-bred organisms authorised for use in food and feed in England.

As I have already laid out, detailed proposals for the register will be included in the new framework for precision-bred organisms. This will be subject to a full public consultation. The consultation findings will be presented to Parliament as part of the full scrutiny process of the affirmative resolution for the resulting draft regulations.

I thank the noble Lord, Lord Rooker, for the opportunity to debate whether Clauses 26, 27, 28 and 29 should stand part of the Bill. We recognise noble Lords' concerns in these areas. I hope that my words regarding the crucial role and important work that the FSA has and will continue to undertake have provided some reassurance about the importance of these clauses standing part of the Bill. We will of course provide a detailed response to the DPRRC report, having heard the views of noble Lords and having taken into account the valuable detail provided in that report. With that, I hope that I have reassured noble Lords.

Baroness Bennett of Manor Castle (GP): My Lords, I thank the Minister for his response and everyone who has taken part, in what is getting to be a fairly late night, for their detailed and forensic examination of this part of the Bill and the proposed amendments.

I do not think that I can add to the debate on Amendment 60 on the resources of the FSA, except to say that we could not possibly have had a better team of people who commented on that. Their concerns should be heard and listened to.

On what the Minister said about the precautionary principle, it is possible that the word "proportionate" in the description is carrying a lot of weight. The question is whether we are talking about proportionate to risk or to the impact on potential profits. None the less, I thank the Minister for his reassurance about the precautionary principle. I should warn him in advance that I suspect that I might quote those words back to him in the future.

I will start with my Amendment 58 on traceability. As the Minister was speaking, I was thinking about a small, independent baker I happen to know, who is based in Nottingham. She is very innovative and doing amazing, exciting work. I do not know this for a fact because I have not discussed it with her, but I think that I can take a reasonable guess that she will be very keen to ensure that she does not end up with any gene-edited crops in her products. She will want to make sure that that is the case so that she can keep a check on these things. We need the traceability,

because if things start to go wrong we need to be able to trace where they are going wrong. Traceability is crucial.

It is rather late, and this is something we will come back to. The noble Lord, Lord Rooker, is far more expert on the whole issue of skeleton Bills than I am so I will not attempt to respond, except to note that he is of course reacting to a highly respected independent committee of your Lordships' House.

I suspect, particularly with Amendments 57 and 58, that these are issues we might well come back to, but in the meantime I beg leave to withdraw Amendment 57.

Amendment 57 withdrawn.

Amendments 58 to 60 not moved.

Clause 26 agreed.

Amendment 61

Moved by ***Baroness Bennett of Manor Castle***

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

"Labelling of food or feed produced from precision bred organisms

(1) Food or feed produced from a precision bred organism or its progeny that is placed on the market must be labelled to inform prospective purchasers that it has been produced from a precision bred organism or its progeny.

(2) The labelling required under subsection (1) must be in easily visible and clearly legible type and, where packaging is used, it must be placed on the front outer surface of the packaging.

(3) Regulations must lay down the labelling terms to be used to meet the requirements of subsection (1).

(4) Before making regulations under this section, the Secretary of State must—

(a) consult representatives of—

(i) consumers,

(ii) citizens and civil society,

(iii) food producers,

(iv) suppliers,

(v) retailers,

(vi) growers and farmers,

(vii) the organic sector,

(viii) other persons likely to be affected by the regulations, and

(ix) any other persons the Secretary of State considers appropriate; and

(b) seek the advice of the Food Standards Agency on the information to be required to be provided on labelling.

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

Member's explanatory statement

This new Clause would require the Secretary of State to make regulations about the labelling of precision bred organisms and food and feed products made from them and to consult with named stakeholders before doing so.

Baroness Bennett of Manor Castle (GP): My Lords, Amendment 61 is in my name and those of the noble Baronesses, Lady Jones of Whitchurch and Lady Parminter. I thank them for their support. Both the amendments in this group take on the issue of labelling. Traceability and labelling very much fit together. I will quote one sentence from the Soil Association's briefing on the Bill, which makes a really important point:

"The objectives of the Bill could be achieved *with* the inclusion of labelling and traceability."

It is crucial to say that these are amendments that, much as I might not like it, accept many other parts of the Bill but say that the public and industries have to be able to see what is going on.

I already referred to the FSA's study of July 2021. To quote another of its findings:

"Most consumers felt labelling should always inform the consumer of the presence GE ingredients".

I also note that the Nuffield Council on Bioethics, BBSRC and Sciencewise's *Public Dialogue on Genome Editing in Farmed Animals* found that consumers

"wanted products from genome edited animals to be labelled as such."

We have before us two amendments that are similar but slightly different; the second one, Amendment 62, being in the names of the noble Baronesses, Lady Hayman of Ullock and Lady Bakewell. Either amendment would very much do the job. My Amendment 61 aims to be really clear and simple. It would give consumers information at the point of purchase, and although I fully understand the desire of the noble Baroness, Lady Hayman, to add further information about nutritional content, allergens and environmental impact, I suspect that we should be seeing that kind of labelling on all food, rather than specifically precision-bred food.

We can imagine what a so-called precision-breeding label might look like: a sticker that says "PB" in large writing with a little explanation underneath. Keeping that separate from the nutrition and environmental impact labelling in the interests of simplicity is an argument. Plus, saying that this should be added specifically to precision-bred food items but not to others does not quite add up, as far as I can see. However, I am not hugely wedded to that position, and I will interested to hear what the noble Baroness, Lady Hayman, has to say in this regard.

If we were to do a survey on the public's concerns about this Bill, labelling is probably the issue about which we would find the most concern, as is backed up by the research I have already quoted. It is very clear and understandable, and people just want to know what they are eating. That has always been true and is increasingly true, given, as the noble Lord, Lord Rooker, said, some of the many scandals, problems and issues we have had with our food supply over the years. I beg to move.

Baroness Hayman of Ullock (Lab): My Lords, I think it would be helpful for me to introduce my Amendment 62 at this point. We know that the Bill is going to create a new type of food product on supermarket shelves, the precision-bred organism, and is also clear that there is a trend among consumers to want more information about their food, what it contains, where it comes from and its environmental impact. All these things are important, and the noble Baroness, Lady Bennett, talked about traceability as well, so it is important that

[Baroness Hayman of Ullock]
we have a discussion about how we achieve this, what we label, how it needs to be labelled and the impact of precision-bred organisms on future labelling.

Our Amendment 62—I thank the noble Baroness, Lady Bakewell, for her support—would require the Government to introduce regulations to ensure that precision-bred food and feed is labelled to provide sufficient information in certain areas. As the noble Baroness, Lady Bennett, has already said, that includes nutritional content, the potential presence of allergens and the environmental impact of the product, but it would also require the Secretary of State to consult stakeholder groups before pursuing that and to seek the advice of the Food Standards Agency. The Government have already said that they support nutritional labelling to inform consumers of any allergens or if the nutritional content of the food has been changed from its natural state. This is something we need to address in the Bill.

We are aware of the issues of coexistence with other production systems, supply chain tracing and how the legislation might have an impact on the organic sector. The noble Baroness, Lady Bennett of Manor Castle, has talked about the organic sector, and I am not sure we have had sufficient discussion in Committee so far about the potential impacts on that sector.

We also believe it important to consult on this issue, so that whatever labelling regime the Government decide to introduce allows for different types of food production to coexist. In the impact assessment the Government state that they oppose labelling in this instance, based particularly, I think, on the costs it would incur for businesses. I am sure the Minister can confirm those points. The impact assessment has not calculated the costs or benefits of labelling, so it would be helpful if the Minister could let your Lordships know how that judgment was reached.

I would like to draw attention to a couple of points in the impact assessment. In paragraph 114, the Government note that

"maintaining a labelling and tracing system could also have wider benefits, most notably, improved consumer confidence in food products potentially adding value across the food supply chain."

We spoke at Second Reading and earlier in Committee about the importance of consumer confidence. The impact assessment also states:

"Given uncertainties … we have not monetised the estimated annual cost of a labelling and tracing system to business."

This was also identified by the Regulatory Policy Committee, which stated in its report:

"The traceability and labelling costs, the primary benefit for the preferred option and which differentiates the two regulatory options considered, is not quantified. As this is the main difference between the two regulatory options, the Department needs to provide some quantification of the scale of the potential impact from this change."

I would be very grateful if the Minister could comment on this assessment. Further to that, in its written evidence to the committee, the Nuffield Council on Bioethics noted that the Government's present stance on labelling

"runs contrary to the findings of many public engagement initiatives that have broached this question ... in this context, not labelling amounts to the withholding of information about consumer preferences".

The question I would ask the Minister and the Committee more broadly is: where do we go with this? How do we best provide the information consumers want in order to produce confidence in the system? It is not an easy question; there are no easy answers. But I do think we need to make progress.

8.45 pm

Lord Cameron of Dillington (CB): My Lords, after much thought, I am afraid I am a reluctant opposer of these amendments. I understand the need for transparency with the consumer—and the answer to the noble Baroness's last question is very important—but I feel labelling will not work in this case.

Everybody supports the proposal to have a register of PBOs, and no one is trying to hide anything. If anyone really wants to know, they can find out, but not necessarily in 20 seconds—which, I gather, is the time it takes an average shopper to decide on a product. Secondly, we do not currently require people to label that a crop has been produced using an F1 hybrid technique or bombarded with radiation, or that it has undergone polyploidy induction or somatic hybridisation, or that a chemical such as colchicine has been involved. But if you asked people in the street whether they wanted such techniques to be labelled, they would almost certainly say yes, which is why they answered "yes" to the labelling of gene-edited products. Of course they did. But we need to be led by the science on whether these products are actually different if we are going to put a statutory labelling requirement in place, and the product is the same as in traditional breeding.

For instance, if I devised and produced a particular potato by editing its genes, and someone else, because they had been working on it for 20 years or so, produced a similar potato by traditional means, what would be the difference? It would be scientifically impossible to tell the two apart. ACRE would grant them both a licence and the FSA would pass them both as perfectly safe to eat. So, a label that distinguishes one from the other could be misleading and would not do our labelling system any favours. Incidentally, that view is shared internationally. Canada, the US and Japan do not require labelling for precision-bred products.

I believe it is the product that matters, not the technology used to produce it, provided that all the safeguards and breeding processes are strictly adhered to—and we are obviously going through these regulations very carefully, covering the breeding process for both crops and animals. They are already amazingly strict. As someone said in the Commons, do we label or license everything produced by 3D printing, just because someone could make an unlicensed gun with it? No—let us license the gun and not the 3D printing process.

It might be helpful to have some breeding details here—and I apologise as I am slightly retreading ground that I touched on on Monday. The point is that any wheat used to make bread is going to be several generations away from any gene editing, and obviously, ACRE and FSA get involved long before a seed reaches the marketplace. But, as I said on Monday, if a company edited a wheat to improve its milling quality, it would then have in-house testing for off-target characteristics,

which would take about three or four generations—three or four years. Then, there would be a further two generations—two years—of statutory testing. Then, the variety gets recommended listing, and there would probably be another one or two years of multiplying up the seed for the farmers' marketplace. It is a very long process, and I am not sure that the final crop of wheat could be called genetically edited as such. It is six or seven generations down the line.

Very few flour producers, especially the smaller ones who make for specialist local bakers, will have the capacity to separate this new variety. So what about your local high-quality village baker, who probably does not even have a wrapping for their bread and puts it straight onto a shelf? You can tell I am talking about my own local baker here, because that is exactly what she does. She will probably have to put up a general notice above the door of her shop, saying that the products sold in that shop may contain flour that is remotely descended from a gene-edited plant.

Incidentally, on Monday, the noble Baroness, Lady Bennett, mentioned Jabal, which is a new drought-resistant durum wheat which has just been produced by ICARDA, one of the UN CGIAR centres. She rightly indicated that it had been produced by scientists and farmers, and had been developed between 2017 and 2021. It is true that it was produced by ICARDA—with INRA, incidentally, which is the Moroccan agricultural research organisation—in 2017, and that between 2017 and 2021 it, and four or five other varieties which were produced at the same time, were tested with local farmers. The scientists, I may say, did not actually favour Jabal. They favoured another one which had better drought resistance, but it was a short-strawed variety and the farmers preferred the long-strawed variety because that is what they feed to their animals. For once, the scientists listened to the farmers: it does not always happen, I may say.

Anyway, the farmers chose Jabal and soon, I gather, in two or three years' time, when it has undergone all its public tests, it will be released for farmers to grow; in other words, some six or seven years after they first started trialling it. But the time we should really be focusing on in connection with this Bill, of course, is the pre-2017 period, when the various seeds were actually being developed. I do not know whether your Lordships have ever been to a plant breeding centre. A few years back I went to the James Hutton Institute in Dundee, where they breed barley, which is very important for the Scottish economy—for whisky. They have 700 varieties of barley, all lined up, in their greenhouse, and maintain those 700 different varieties each and every year, because they do not want to lose any of them. Then they hybridise each of them. I am not a statistician, but I cannot quite imagine the number of crosses you can make from 700 different varieties of barley: it is going to be huge, probably in the millions. But they do this. Say you are looking for a particular characteristic, such as drought resistance: you hybridise it and look at it, breed more hybrids with another hybrid and so on, and go on through the procedure, and then, probably some 10 to 15 years later, you will find you arrive at something that is a leap forward. Then, of course, you have to go through all the tests.

So ICARDA has been working for maybe up to 15 years to produce this Jabal wheat and its four or five contemporaries before you get to 2017. If there are 700 barleys, there are over a thousand wheats. But the whole point of the Bill is that the advantage of gene editing is that you can do that process in possibly two or three years, not the 10 to 15 years it would normally take. It is complicated, and not actually very easy. Do not forget that the wheat genome is actually much bigger than the human genome. I believe the human genome contains 3 billion DNA letters, while bread wheat has 16 billion. That is a big difference. But—and this is the key point—whether it is gene edited or not, they all have to go through the testing period of five or six years and five or six generations before they can be released.

When it comes to animals, as I explained on Monday, with the intergenerational gap of, say, two years and nine months with a cow, or four years with a salmon, even if you have some miracle breed on the stocks ready to go the moment this Bill becomes an Act, it is still, with all the necessary testing, going to be the mid-2030s before such a product turns up in a shop. Breeding improvements in a species is a very long-term process, even with gene editing.

On the traceability front, I can do no better than to quote the evidence given to the House of Commons committee by Professor Whitelaw, who works for Roslin. He said:

"When it comes to traceability … genome-editing technology generates the equivalent of what is naturally found. Every animal born carries 40 de novo mutations—

that was a new one on me—

"and genome editing adds another one to that list. Without having an audit trail of individual animals, you will not be able to identify one genetic change from another. It is impossible to categorically say, 'That is caused by genome-editing technology rather than a natural mutation.' Therefore, the audit trail of an animal or product will not be based on the molecular analysis of that animal; it must be based on something else."

Another witness, Dr Craig Lewis, told the committee that

"if we look at the pig industry in the UK, it is more done on a … lot basis. For example, normal practice … is to use pulled semen at a commercial level for a terminal sire, so—

and this is an important point—

"even within a litter, you might have three … sires represented … so individual animal traceability in the UK pig industry … does not really exist."

How can one label a sausage produced in one of those litters as gene edited with any degree of confidence? I do not think one can and, as I say, we could be bringing the whole labelling system into disrepute. I completely understand the desire for transparency, and it is only after much thought and research that I have arrived at my conclusions. I just do not think labelling would be valid or, for that matter, achievable with any degree of certainty. Furthermore, I do not actually believe it is necessary. I support the view taken, as I say, by Canada, the US and Japan to not require labelling for precision-bred products.

Lord Krebs (CB): My Lords, I can assure noble Lords that this is not some sort of Cross-Bench conspiracy, but I am afraid to say that, although I can see the arguments, I too do not support the idea of labelling precision-bred products.

[Lord Krebs]

I have three principal arguments, some of which have been touched on, but I will nevertheless repeat them. The first is to do with enforceability. As we have heard, and indeed my noble friend Lord Cameron said a few moments ago, there is no chemical test that can distinguish between a precision-bred organism, whether it is a plant or an animal, and one that is produced by conventional breeding. So trading standards officers or public analysts would not be able to do what they would normally expect to do: take a product off the shelf and subject it to a chemical test to justify or assess its authenticity.

We have heard quite a bit about traceability and my noble friend Lord Cameron pointed to some of the difficulties with traceability in the livestock industry. But also, it is important to remember that in the food industry traceability works on a one up, one down principle. That is to say, you are buying a raw material to put in a product and you check that the person who is selling you the raw material claims that it is what it is on the tin. But that chain can often be very long. You are buying grain that has been produced in Argentina and there is a long supply chain from the farmer to the transport to the dock to the transport in the ship to Liverpool; the cargo is unloaded in Liverpool and then it is transferred through many stages before it finally ends up in the Warburtons bread factory. The one up, one down system is by no means fool-proof—which is why to really check what something is, you need to have an analytical test to back it up. A regulation that is unenforceable is a bad regulation.

Secondly, what are consumers supposed to do with the information? Of course, if you ask consumers whether they want to have precision breeding on the label, they will say yes. I know from my time at the Food Standards Agency that almost whatever you ask people about they will say "Yes, we'd love to have it on the label". But you also have to remember that other surveys show that only between one-quarter and one-third of consumers ever read the label. So many people who say they want it on the label do not actually look at it. If it is supposed to allow people who are worried about technology to avoid PBOs, as my noble friend Lord Cameron has said, why not label products which have been produced as a result of mutagenesis with ionising radiation or chemical toxins?

I can, however—and perhaps this speaks to the point that the noble Baroness, Lady Hayman of Ullock raised—have reason to label the effects of a PBO. For example, if precision-breeding were used to create tomatoes with more lycopene, if no fungicides were used in growing potatoes, or broccoli had more omega-3, there would be a reason to label those, because it would affect the way in which the consumer might wish to use the product. But those benefits do not need mandatory labelling because producers and retailers will do it anyway. You can buy eggs in the supermarket labelled as containing enhanced omega-3. Similarly, standards such as organic foods, Freedom Foods and Rainforest Alliance foods are labelled without the need for regulation because there is a marketing advantage.

Labels are already overcomplex. Although, as I say, people will always ask for more, cluttering up labels with more information will make it more difficult for those who have to read the labels for crucial information—for example, to avoid allergens. If you add extra labelling, you are just making it more difficult for people to read the crucial things.

9 pm

The US Food and Drug Administration has the principle that information should be mandatory on a label only when it affects how the consumer wants to use the product. Since labelling a PBO, as my noble friend Lord Cameron said, does not affect the nature of the final product, it is hard to see how it can affect the way in which the consumer uses it.

My third and final point is about the practicality of labelling unpackaged fruit and vegetables. If the label has to be on the package, how would one label potatoes sold loose? To take another example from the plant side, equivalent to that referred to by my noble friend Lord Cameron, let us say a tomato sauce is made from raw materials from many sources; what does the label say? Some of the sources may be precision-bred tomatoes, but the majority may not. Is it another case of "may contain", which is not a very helpful label?

So, although I can see the arguments, I am afraid I do not support these amendments and I do not think they are practical—and, incidentally, I do not think the Food Standards Agency supports them either.

Baroness Parminter (LD): I do not want this to become one side versus the other, but I am happy to follow the two noble Lords, because I disagree with their position. There is a very strong case, with practical arguments that I hope to make, in support of labelling. I am not going to repeat the well-made arguments about why the public want it, and it is not just because everyone will say they agree with a survey. By the way, if you say the FSA is such a great organisation that it can come up with the prosect of a register, you cannot then say that it cannot come up with a decent questionnaire to which the public do not know the answer. Noble Lords must accept that, if the FSA can do a register, it can do a decent questionnaire.

So, on this occasion, I have trust in the FSA, but, more broadly, I have trust in the public. We know the public want labelling on animal welfare issues. I started my life at the RSPCA and was responsible, with others, for the creation of the Freedom Food label. I have known all my life that people want more information about these sorts of issues. The evidence is out there, not just from this one survey last year but from the direction of travel over decades. You do not need me, or the FSA or the RSPCA, to say that. Just look at what Governments are doing. Our Government, to their credit, are looking next year at a new, broader labelling scheme for food products that will include carbon emissions. It is not easy, but they are looking at doing it because they know that is the direction of travel for the public.

This is not just in the UK. Both noble Lords mentioned the USA, which is not labelling gene-edited products at the moment. That is correct. However, what they did this year in America, for the first time, was introduce a new federal law on labelling GMOs. All GMO products have to be labelled "bioengineered" or "made by bioengineering". They have made a massive shift. They may not be labelling gene editing at the

moment, but the country that is the most open to GMOs in the whole world is now labelling all GMOs, by federal law. The direction of travel, the traceability issues and the claims from organic farmers all mean that products must have labels on—very simple labels, with "made by bioengineering" or "bioengineered". This is not rocket science; it is the direction of travel for Governments.

My second point has not been addressed by the arguments of the two noble Lords opposite. If you do not label, even if you are prepared to put to one side arguments about the public, how do you address the issue that Europe may not go down the same route as us on gene editing? The EU is not going down the route of gene editing for animals at all; it is not even in the consultation. The Minister might shake his head, but it is not in the consultation. We all know how slowly the EU operates and the consultation in the EU is only on plants.

If we do not label products, how will our exporters be able to export without extra regulations, paperwork and cost—unless they can, on the pack, say it is okay because it is labelled as such? That will affect not only those who are gene editing but those who are not gene editing; they will all be stuffed up with extra regulations and legislation because of Brexit, because we are not putting labels on packets.

Then there is the point made earlier, to which I referred, about Scotland and Wales, both of which are opposing this legislation. The Government say that they are talking with the Scottish Government, but I hope that they are listening as well. Surely, one thing that the Scottish Government would say is, "Well, if you were prepared to label, we could then make an informed choice on what comes over our border. We could say, 'We don't want that, but we'll take that'—we don't need to worry".

It is very rare for me to dare to disagree with not just one but two leading Cross-Benchers in this field. I hear their arguments—but on the grounds of the impacts on trade and my experience, such as it is, and understanding of what the public want on labelling, this is an area where the Government have to make some concessions.

Baroness Bakewell of Hardington Mandeville (LD): I will speak very briefly. I have added my name to Amendment 62 in the name of the noble Baroness, Lady Hayman of Ullock, and my noble friend Lady Parminter has spoken to Amendment 61. Both noble Baronesses have made very powerful points.

Both amendments deal with labelling, a critical component of ensuring the acceptance of precision-engineered food by the public. It is the public at the end of the day that will make the decision about this. The Food Standards Agency in its recent briefing felt that labelling was not necessary, as the noble Lord, Lord Krebs, has said, as the food produced by natural processes would be completely indistinguishable from that which has been precision engineered, and the labelling would be cumbersome and the labels too cluttered. Obviously, I disagree with that.

The consumer has become used to reading labels to see what the allergen content is, what the calories are and how much salt and fat are contained in the product—so why not whether the product contains precision-bred ingredients? We heard earlier from the noble Baroness, Lady Jones of Whitchurch, that the FSA is under pressure and underfunded. The noble Baroness, Lady Hayman, set out her amendment clearly, and it is obvious what the rationale is. At some stage, the Government will carry out a review of how the actions permitted in this Bill are progressing, and what the advantages and disadvantages have been. I hope that it will all be positive. However, if there is no clear labelling, the process of review will be deeply flawed, if not impossible to carry out.

The noble Lord, Lord Krebs, referred to loose potatoes being labelled and that being very difficult—and I have to say that it will be exactly the same as they are at the moment. In the shops, it will say, perhaps, "Arran Pilot" or "Estima", and underneath it may say, "Contains genetically modified organisms". It is not difficult for loose produce to be labelled. All precision-bred organisms and food and feed, and the progeny from those organisms, should be labelled from the start of the process, not at some later date in future.

Lord Benyon (Con): My Lords, I know that labelling was raised as a concern at Second Reading, and I would like to address those points and discuss our approach to transparency within the Bill.

As I have said before, the Bill is being led by the science. As the noble Lords, Lord Cameron and Lord Krebs, highlighted, there is currently no method that can categorically determine whether genetic changes to an organism of the kind covered by this Bill have arisen conventionally, or through the application of a precision-breeding method such as genome editing. Precision breeding is another method in our breeding toolbox. To be clear, products from precision-bred plants or animals will contain only genetic changes that could also occur through traditional breeding or naturally. We do not currently label for other breeding methods such as chemical mutagenesis, and we do not label novel foods as novel. If I went out into the street now and asked people whether they would like food that was created by chemical mutagenesis, as noble Lords have said, they would probably say yes—but we have to be absolutely clear what we are talking about here.

The FSA is establishing a separate authorisation process for food and feed derived from precision-bred plants and animals. Through this process the FSA will ensure that all products placed on the market for consumption will be safe. We are not alone in taking this approach on labelling, and, as the noble Lord, Lord Cameron, so eloquently said, we are aligning with many of our partners across the world, such as Canada, Japan, Argentina and others, that do not require precision-bred organisms, or food and feed derived from them, to be labelled as such.

For these reasons, we do not think it would be appropriate to require labelling to indicate the use of precision breeding. We understand the importance of transparency and, as I have mentioned, the Bill enables regulations to establish public registers. This will ensure that information about precision-bred plants and animals, and the food and feed produced from them, which can

[Lord Benyon]
be marketed in England, is in the public domain and can be accessed freely by consumers and food businesses. The intention is that the development of the register of food and feed from precision-bred organisms, and associated information requirements, will be subject to consultation, so there will be further opportunity for stakeholders to feed into this work.

The industry also recognises the importance of transparency. The British Society of Plant Breeders has recently committed to maintaining a public register of all registered plant varieties that have been developed through precision breeding; the society's registers provide the basis for traceability of agricultural crops.

The issue of allergens was mentioned earlier and was also raised at Second Reading. I understand that consumers will want to know of any compositional changes that may affect them. I want to reassure your Lordships that regulation on the provision of food information to consumers already adequately covers both nutritional and allergen labelling for food products, thus ensuring that consumers have access to the information they need about these matters.

Existing requirements of food law mean that food business operators must have systems and procedures in place to identify businesses they have supplied. This ensures that food can be traced, and any unsafe products recalled. There are also provisions in the Bill that would enable more specific requirements on traceability to be made in relation to food and feed produced from precision-bred organisms through secondary legislation.

Through the Bill we want to create a more proportionate and science-based regulatory regime to encourage greater innovation and industry investment in precision-breeding technologies. I understand the different opinions that may exist on this, but if we are being honest with the public, we have to listen to what the noble Lords, Lord Cameron and Lord Krebs, said about what we are saying on any label. It would be impossible to differentiate between two food stuffs—one that was produced by traditional means and one that had been produced as a PBO. I hope this has reassured noble Lords on these points.

Lord Rooker (Lab): Contrary to the implication that I made at Second Reading, I am with the noble Lords, Lord Krebs and Lord Cameron, here. If you cannot check it, you cannot label it.

There is a fundamental point here—and I quoted the late Professor Burke. I know from experience the very reason the FSA was set up, and the Minister needs to send an edict round his colleagues: we do not want any Minister to ever claim that gene-edited food is safe, because the public will not believe them. That is the reason the FSA is there. It is a pity, because we have some Members of this House who have personal experience of this. They could destroy the food industry. The public will believe the scientists and the officials from the regulatory authorities; there is abundant evidence for that over the last 20 years.

If the Minister wanted to wreck gene editing and the food industry, he would give the nod to Ministers to say, "We've got this new policy—it will go down well with the public, and there are a few votes in it. You get down there and tell your local people". It is fine for Ministers to do what the Minister is doing now—legislating—but they should have no role whatever in promoting and explaining. Legally they have no role, because legally the responsibility is with the Food Standards Agency, but you have to spell that out to Health Ministers—you had to spell it out even to Labour Health Ministers that they had no role. They do not like it, because there are no levers to pull, but it is just one of those things.

However, in terms of confidence for the food industry, which has been restored in the past 20 years after some rocky incidents, it is fundamental that the Minister gets across to his colleagues that Ministers should not pontificate on safety and the other aspects of food. They are going to have to pay for this, by the way, because resources are needed for both the FSA and the other regulators, including the scientific committees, to explain things to the public and defend the situation in a way that the public will believe. They will not believe Ministers; I can tell you that from my own experience. I kept out of it in the horsemeat scandal. I left it to the officials and the scientists. No one was going to believe a hack politician who was previously a Minister. It is true that it was a very difficult situation, but the public will not believe Ministers. It is as simple as that.

9.15 pm

Lord Benyon (Con): I can assure noble Lords that I always trust experts over politicians. I was in Defra at the time of the horsemeat scandal; I entirely endorse what the noble Lord says. As on so many occasions, if you get people who are real experts in their field, they are often able to convey the opinion much more effectively than Ministers. With due humility, I accept the noble Lord's advice.

Baroness Bennett of Manor Castle (GP): My Lords, I thank the Minister for his response and all the noble Lords who have contributed to this absolutely crucial debate—in particular, the noble Lords opposite who put so much into it. Given the hour, I will park the debate about Jabal wheat for the moment; perhaps we can have that debate over the Long Table sometime and continue the discussion.

I want to say something very serious and, I must say, concerning. The Minister and the noble Lord, Lord Cameron of Dillington, both said that it is impossible to identify whether something has been gene edited. I have no doubt that the Minister is operating on the advice that he has received, but I am afraid that that is simply untrue. It is a great pity that the noble Lord, Lord Winston, is not in his place; I will attempt to channel him because he would undoubtedly say this better than I am going to.

As an example, I refer to a 2020 article in *Theoretical and Applied Genetics* by Biswas, Rong et al. Its title is "Effective identification of CRISPR/Cas9-induced and naturally occurred mutations in rice using a multiplex ligation-dependent probe amplification-based method". Let me translate that into English. This article shows how you can identify both the intended and unintended impacts of the use of CRISPR-Cas9, as well as any other mutations that occur independently of the use of CRISPR—in rice, for example.

That is just one example from 2020. Let us look at another example: a commercial practice called the real-time PCR method. I think we have all become familiar with PCR tests during Covid. I have no reason to disbelieve it so I cite what the commercial company says: that this method detects

"what is probably the most challenging class of gene edits—a modification of just a single letter in the genetic blueprint".

This is the simplest change possible and it is detectable through a PCR test—something with which we are all highly familiar.

Lord Krebs (CB): Does the company claim that it can tell whether that single base pair change was produced by genome editing or by mutation? If so, how?

Baroness Bennett of Manor Castle (GP): I am sorry; I cannot speak for that company. What I can refer to, because I was just talking about it, is the rice article to which I referred. As I said, the article refers to—we need the noble Lord, Lord Winston—the multiplex ligation-dependent probe amplification-based method. I would be happy to provide a reference to both the noble Lord and the Minister. The article says that this method can definitely determine whether the impacts of CRISPR-Cas9 are intentional or unintentional, or whether it is something that has happened independently but at the same time. So there is at least one method here, in a respected peer-reviewed journal, that sets out how this can be identified.

Further, I point out that the US Government this year announced a collaboration to develop

"an initial set of computational tools that assists trained analysts to identify genetic engineering in a next generation sequencing data set. It makes it possible for scientists to detect engineered DNA at scale".

That is a US Government project happening this year. Any claim that this is all impossibly difficult and cannot be done simply does not stack up. If the noble Lord, Lord Winston, was here, I am sure he could cite many more cases, but the evidence, I think, is clearly there.

I want to pick up some of the points made by the noble Lords, Lord Krebs and Lord Cameron of Dillington. First, the noble Lord, Lord Krebs, said that we cannot have extra labelling: there is not enough space, and it is too confusing. If we pick up an average packet of something in the supermarket—say, a packet of pasta—it will have some very large branding on it and a small space dedicated to nutrition and other information. Possibly, we need less space for the branding. Very little packaging has insufficient space for extra information of the kind that consumers want.

The noble Lord, Lord Cameron of Dillington, made some points about random mutagenesis techniques and other techniques that he used, and said that they are not labelled. There may be an argument that they should be labelled, but putting that to one side, the fact is that comparing genome editing to those kinds of techniques is comparing apples and pears. Basically, gene editing can access and amend parts of the genome that are protected from naturally occurring or induced mutations. This is something that perhaps we have not brought out in previous debates, and we might want to explore it further on Report. There is a difference between the parts of the genome that can be accessed by these different techniques.

I have dealt with a lot and am aware of the hour. It is clear there is a strong demand from many sides of the House for this labelling and a strong demand from the public. For the moment, I beg leave to withdraw the amendment, but I have little doubt that we will return to this on Report.

Amendment 61 withdrawn.

Amendment 62 not moved.

Clause 27: Food and feed marketing authorisations: register

Amendment 63 not moved.

Clause 27 agreed.

Clause 28 agreed.

Clause 29: Meaning of "Part 3 obligation"

Amendment 64

Moved by ***Lord Benyon***

64: Clause 29, page 20, line 6, leave out "relevant" and insert "Part 3"

Member's explanatory statement

This amendment makes clear that the reference to a relevant obligation in Clause 29(4)(a) is to a Part 3 obligation.

Amendment 64 agreed.

Clause 29, as amended, agreed.

Clauses 30 and 31 agreed.

Clause 32: Enforcement

Amendments 65 and 66 not moved.

Clause 32 agreed.

Clauses 33 to 38 agreed.

Amendment 67

Moved by ***Baroness Jones of Whitchurch***

67: After Clause 38, insert the following new Clause—

"The Genetic Technology Authority

(1) There is to be a body corporate called the Genetic Technology Authority.

(2) The Authority is to consist of—

(a) a chair and deputy chair, and

(b) such number of other members as the Secretary of State appoints.

(3) The Schedule deals with the membership of the Authority, etc."

Baroness Jones of Whitchurch (Lab): My Lords, I am very conscious that I am in the graveyard slot, but I hope that noble Lords who remain here will bear with me, because the amendments I have tabled are fundamental to where the Bill has lost its way and would produce a useful solution. I also welcome the very helpful Amendment 68 from the noble Baroness, Lady Bennett.

Amendments 67, 69, 70, 71, 72 and 90 are in my name. All of them, although it is a lot of paperwork, have quite a simple intent: to establish a separate body to oversee the wider ethical and regulatory challenges which the fast pace of genetic, scientific progress is throwing up. This proposal was initially floated by my colleague Daniel Zeichner in the Commons. I have tabled it again because I did not feel it had sufficient attention in the Commons. I continue to believe that it raises an important principle and an important way forward which I hope the Government might consider embracing.

As Daniel explained in the Commons, it is modelled on the Human Fertilisation and Embryology Authority, which has managed to maintain a hugely respected and authoritative voice in the field of human genetics. Its inclusion in this Bill meets the call from many of the respected scientific bodies which gave evidence to the Commons, calling for a body to oversee the implications of wider trends in research, rather than looking at each case in isolation. It would therefore be able to make recommendations for broader policy changes. Organisations such as the Royal Society and the Nuffield Council on Bioethics made that point.

These amendments also address an important point made by several noble Lords at Second Reading. It is important that the regulators look at outcomes and not processes. What we have here is process driven. We need to look at the end result of all the proposed changes. We believe that an authority with a wider remit, as set out in these amendments, would do just that. Such a body could also provide a forum for a wider review of genetic technology, which could include GMOs, the regulation of which is increasingly out of step with the provisions in this Bill.

I have a fundamental concern about the processes set out in this Bill, because they create an enormous paper trail of notifications between the Secretary of State, the advisory committee and the welfare advisory committee—not to mention the Food Standards Agency and potentially the Home Office, as we have been hearing today—without anybody taking a strategic overview of the risks and impacts taking place. All of these organisations, including Defra itself, are facing real-terms cuts in budgets. I am not convinced they will have the capacity to follow the bureaucracy being created with any real rigour. The Minister in an earlier debate referred to his flow chart; he waved it at us very proudly. I counted 12 touchpoints on that flow of contacts where information was being received and passed on. We are in danger of dropping the ball and missing a hugely risky scientific intervention getting buried in that paper trail.

The inclusion of animals in this Bill has made the case for such a body far more stark because, as we have been debating, public attitudes to animal welfare are changing over time. We are, for example, much more determined to ensure that farmed animals have a good life, as far as that is able to be delivered. Genetic engineering impacts need to be measured against changing public perceptions—not just the welfare issues at the time but future public perceptions of what a good life is for a farmed animal.

We also need to take a long-term view of those impacts, which are sometimes unforeseen, as we were debating earlier; they do not show up immediately. On other occasions, the cumulative effect of mutations might result in welfare or environmental harms that are not easily measured at the time of an individual approval. Under the current arrangements, who is taking the longer view? How can we be sure that our policies continue to match the science?

Our organisation and new authority could also give advice on how research information could be shared to ensure that there is a level playing field in knowledge acquisition among public and private bodies.

9.30 pm

However, there are other advantages to a genetic technology authority. Such a body could develop a more risk-based and proportionate regime for research. Where there are widely accepted benefits, it could mean that we do not necessarily have to go through all the hoops. Trusted researchers could get approval much more quickly through a fast-track system once they have proven their case, rather than every single variation having to go back through the system again. An organisation with a proper overview of this could make a real difference.

My amendments would establish the authority's functions and duties to review, evaluate and publicise the research. It would remain independent of government, it would be led by individuals independent of the research establishment, and it would operate in the public domain.

Finally, the great advantage of creating an authoritative independent body to give oversight is that it would help to cement public acceptance of and public trust in the research—something that we have touched on time and time again this evening. I therefore hope that noble Lords and the Minister will see the sense of this proposal and I beg to move.

Amendment 68 (to Amendment 67)

Moved by ***Baroness Bennett of Manor Castle***

68: After subsection (2), insert—

"(2A) Members of the Authority must have expertise in the areas of environment, sustainability, ethics, social sciences, consumer protection, civil society, social justice, and various methods of organic and non-organic farming and food growing."

Baroness Bennett of Manor Castle (GP): My Lords, I apologise very sincerely apologise. I am well aware that amendments to amendments are far from popular and often create great confusion. I am attempting to remember to keep the order right, having not done this for a while.

I thank the noble Baroness, Lady Jones of Whitchurch, for acknowledging this as a helpful point to add to her crucial proposals. The genetic technology authority, as

proposed by the noble Baroness, is a crucial resource. However, on and off through Committee we have discussed concerns about the composition of ACRE and the narrow nature of the advice that the Minister and his department are receiving.

Amendment 68 provides a list of expertise. I am very happy to debate the details if the Government want to come up with their own list or work with the noble Baroness, Lady Jones of Whitchurch, for the next stage. I have listed environment, sustainability, ethics, social science, consumer protection, civil society, social justice, and organic and non-organic farming and food growing. That is an attempt to capture all the kinds of issues and expertise that our debate in Committee has come across and that the broader debate in the community has drawn on. The idea that these are all purely scientific questions has been profoundly dispelled by the nature of our discussions in Committee.

At the start of the day, which now feels a very long time ago, I spoke about the British Society for Antimicrobial Chemotherapy. At its Infection 2022 winter conference, I spoke about the need for scientists and the frustration among many scientists who feel that they are making discoveries and creating new understandings that are not getting into policy and getting through to the public. There is a need for a blending of social science and physical and biological sciences, to bring understandings together and to build a comprehensive picture—a systems-thinking approach. I hope the Minister agrees that, if we are going to deliver the sustainable development goals, a systems-thinking approach underpins that whole idea: thinking about the societal impact of decisions, how they can be acceptable to society, and the final outcomes.

Aware of the hour, I will stop there, but I hope that the Committee sees the argument for drawing on the widest possible range of expertise to ensure that decisions in and around this Bill are made well.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the noble Baroness, Lady Jones of Whitchurch, has tabled this group of amendments to set up a genetic technology authority. The amendments are detailed and intended to ensure that the GTA operates effectively and transparently, and brings some measurement of results to the Bill. The noble Baroness spoke very eloquently and in depth to this group and to its purpose. For the ethos of the Bill to operate effectively, it will need a robust genetic technology authority to see it through. We have not heard just where the animal sentience committee fits in with the welfare advisory body or with ACRE. Are they to be dovetailed together or completely separate? There is a need for a properly constructed body to ensure safety and progress in outcomes.

There is little that I can add which will bring anything additional to this debate. We support the noble Baroness, Lady Jones, in these excellent amendments. Should the Minister not give a favourable response, we would be prepared to support her again on Report, should she so wish.

Baroness Hayman of Ullock (Lab): My Lords, I thank my noble friend Lady Jones of Whitchurch for introducing these amendments. We fully support these proposals.

I would also like to comment on the amendment to Amendment 67, in the name of the noble Baroness, Lady Bennett. What she has done with her Amendment 68 is to aid our discussion and broaden it out. That is an important thing and we should consider it, but, as my noble friend said in her introduction, her amendments would be pretty fundamental to how we move forward with the Bill if the Minister were to accept them. It also brings forward an important way in which the Bill could be improved, and the implementation of the new technologies managed and overseen.

We know that, as my noble friend said, the genetic technology authority that she proposes is modelled on the legislation introduced to establish the Human Fertilisation and Embryology Authority. We heard earlier from my noble friend Lord Winston how successful that has been, so we should consider this extremely seriously. We know that a number of organisations in this field have either argued for or alluded to the need for the establishment of such a body. They include the Nuffield Council on Bioethics, the Royal Society of Biology and the Royal Society, as well as Doctor Madeleine Campbell of the British Veterinary Association.

There is no need for me to go into the details of why such a body is important, or how it could be set up and operated, as my noble friend has clearly and persuasively laid that out. I say to the Minister that this really seems to be a sensible, proportionate approach that would genuinely strengthen the Bill. I urge him to give it serious consideration and discuss it with his colleagues in the department as we move towards Report on the Bill.

Lord Benyon (Con): I thank the noble Baroness, Lady Jones, for her considered and detailed proposal. As she says, this was raised by her colleague Daniel Zeichner in the other place. I would like to go over some of the key points on why we do not think that a new independent body should be established in the Bill.

We set out our plans for wider reform of genetic technologies regulation in last year's public consultation and in the subsequent government response. We are taking a stepwise approach to developing a more proportionate governance framework in this area. As part of this, we intend to review how we regulate a wider range of genetic technologies and applications. This wider review is a more appropriate context for discussions on an overarching body, such as a genetic technologies authority. It is also consistent with a recommendation made by the Regulatory Horizons Council.

The Bill has a narrower but important ambition, which is to address the pressing issue of introducing more proportionate regulations for PBOs, which are currently regulated as GMOs. Science is already at the heart of this policy and the Bill rightly requires the Secretary of State to make decisions based on the advice of expert committees. ACRE, the committee that will advise the Secretary of State on whether they should confirm the status of a PBO, is also the committee that currently advises on genetically modified organisms. ACRE has considerable scientific expertise on precision-breeding technologies; indeed, it first advised on these techniques in 2013. This formed the basis for our intervention in a pivotal European Court of Justice case in 2018, and for the consultation that we held on the regulation of genetic technologies last year.

[Lord Benyon]

More recently, ACRE published technical guidance on the distinction between genetic changes that could have occurred naturally, or through the use of traditional breeding methods, and those that could not. This was warmly received by its target audience—that is, those planning to carry out field trials with plants developed using these technologies.

The guidance supported an SI that came into force in April. This was the first step to making regulations in this area more proportionate. This guidance and the scientific rationale behind it will be directly relevant to the advice required by the Secretary of State to confirm the precision-bred status of an organism before it can be marketed in England as laid out in the Bill.

We anticipate that ACRE may need to appoint or co-opt new members to fulfil its additional responsibilities. However, it is already populated by many scientific experts in the relevant fields. The chair of ACRE, Professor Dunwell, works closely with Defra and with the devolved Administrations to ensure that the committee has the necessary expertise to deliver the highest quality advice and guidance. Noble Lords will also see in ACRE's framework document that many of the criteria listed in the proposed new schedule are included in it. These include publishing annual reports, advice and guidance.

I thank noble Lords for their detailed considerations on this topic, but I hope I have convincingly set out that it is not appropriate to establish a new independent body in the Bill. I hope I have reassured the noble Baroness. I thank noble Lords for their persistence and the calibre of the debate we have had on these two days. I hope I can convince the noble Baroness to withdraw her amendment.

Baroness Bennett of Manor Castle (GP): I am not going to make a substantive contribution at this point. I echo the Minister and say that this has been a rich debate. I beg leave to withdraw my amendment, and hand over to the noble Baroness, Lady Jones.

Amendment 68 (to Amendment 67) withdrawn.

Baroness Jones of Whitchurch (Lab): I thank the Minister. I will read his comments in *Hansard* in detail, but I have to say that he did not address the fundamental concerns that I have flagged up about the process issues. We have created a huge conglomerate of different organisations with different responsibilities. As the noble Baroness, Lady Bakewell, said, it is not at all clear how they will all ultimately relate to each other, so questions remain about that.

The Minister talked about the wider review. He said there was a recommendation from, I think, the Regulatory Horizons Council and that this was one of the proposals that it had put forward. I would be interested to hear more about that, especially if the Minister can say that this proposal will therefore be dealt with in another forum, not necessarily in the Bill. I would be interested to know—not necessarily today, because I am sure we all want to wrap up, but at some point—whether those recommendations are going to be taken on board.

There is not a meeting of minds here. I feel strongly that the amendment answers a lot of the concerns that we have been debating throughout the consideration of the Bill so far, so I intend to come back to this issue on Report. In the meantime, I thank noble Lords and the Minister. I agree with everyone that we have had a very worthwhile debate. I beg leave to withdraw the amendment.

Amendment 67 withdrawn.

Amendments 69 to 72A not moved.

Clauses 39 and 40 agreed.

Amendments 73 to 75 not moved.

Clauses 41 and 42 agreed.

Clause 43: Regulations

Amendments 76 to 79 not moved.

Clause 43 agreed.

Clause 44: Interpretation

Amendment 80 not moved.

Amendment 81

Moved by ***Lord Benyon***

81: Clause 44, page 29, line 2, at end insert "(but see section 11(9))"

Member's explanatory statement

This amendment inserts a reminder into the definition of "notifier" (which is defined in relation to a marketing notice) that where a different person applies for a precision bred animal marketing authorisation, the meaning can be modified by regulations under Clause 11(9) in relation to the application and the authorisation.

Amendment 81 agreed.

Amendments 82 to 85 not moved.

Clause 44, as amended, agreed.

Clauses 45 to 47 agreed.

Clause 48: Short title and commencement

Amendments 86 to 89 not moved.

Clause 48 agreed.

Amendment 90 not moved.

In the Title

Amendments 91 and 92 not moved.

Title agreed.

House resumed.

Bill reported with amendments.

House adjourned at 9.47 pm.

Grand Committee

Wednesday 14 December 2022

Arrangement of Business

Announcement

4.15 pm

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): My Lords, it is time to go. Let us kick off. As your Lordships know, the protocol is that if there is a Division in the Chamber while we are sitting, the Committee will adjourn when the Division Bells ring and will then kick back in after 10 minutes.

Energy Bill [HL]

Committee (4th Day)

4.16 pm

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): My Lords, I should inform the Committee that if Amendment 129 is agreed to, I cannot call Amendment 130 because of pre-emption.

Clause 110: Fusion energy facilities: nuclear site licence not required

Amendment 129

Moved by ***Baroness Blake of Leeds***

129: Clause 110, page 99, line 13, leave out subsection (2)

Member's explanatory statement

This appears to be covered already in previous legislation.

Baroness Blake of Leeds (Lab): My Lords, I will also speak to Amendment 130, as the noble Lord ably explained.

I understand that the noble Baroness the Minister will respond to this group. By way of background, these amendments relate to Clause 110 in Part 3, Chapter 3, headed "Fusion energy facilities: nuclear site licence not required". This refers back to the Nuclear Installations Act 1965 and the clause confirms the exclusion of fusion energy facilities from nuclear site licensing requirements. It also defines the term "fusion energy facility".

I think we are all a lot more au fait with the issues around fusion after the exciting—for some of us—news from California that has come through over the last couple of days. We know that fusion power is a proposed form of power generation that will generate electricity by using heat from nuclear fusion reactions. Devices designed to harness the energy released from this process are known as fusion reactors. Research into fusion reactors began way back in the 1940s but, as of 2022, only one design, which we have all just been hearing about, an inertial confinement laser-driven fusion machine at the US National Ignition Facility, has conclusively produced a positive fusion energy gain factor—that is, more power output than input. As I said, this was highlighted this week as a major breakthrough in the race to find electricity free from a carbon background.

Physicists have pursued the technology for decades and, as I say, it promises to be a potential source of near limitless clean energy. However, a word of caution: as we know, experts are telling us that there is still some way to go before this technology is able to power our homes. Also, in October 2022, West Burton power station site in Nottinghamshire was selected as the home for the UK's prototype fusion energy plant.

Section 1 of the Nuclear Installations Act 1965 states:

> "No person may use a site for the purpose of installing or operating … any nuclear reactor (other than a nuclear reactor comprised in a means of transport, whether by land, water or air), or … any other installation of a prescribed kind, unless a licence to do so has been granted in respect of the site by the appropriate national authority and is in force."

Our understanding is that fusion energy would not fall into the definition of the NIA 1965, so this is needed to be exempted. May I seek clarification from the Minister on this? We would replace it with a requirement for the Secretary of State to look at new nuclear site licensing which would not be subject to safeguards associated with fissionable materials as this is not totally radioactivity-free but just at a low level.

Fission is the technology currently used in nuclear power stations, but the process also produces a lot of waste that continues to give out radiation for a long time —and we really are talking about a long time. It can be dangerous and must be stored safely. What consideration have the Government given to the Generation IV nuclear reactor technologies that seek both to use this waste as a fuel and subsequently to reduce significantly its half-life? I beg to move.

Lord Whitty (Lab): My Lords, I think I support the broad thrust of this amendment, and certainly the whole. If we are to move at all further on fusion technology, we will need a complete review of all the regulations covering it. We were discussing hydrogen in the same way the other day. This good news from California on fusion technology, to which the Minister referred earlier in the Chamber, should not mean that the pressure is off all other forms of low-carbon heating. It is absolutely clear that we need to have this in perspective. As I see it, the Californian experiment creates 1.5 times the input of energy that went into producing this reaction. I am in favour of fusion technology, but half a century ago I worked at the Atomic Energy Research Establishment at Harwell. Culham was just down the road and I recall that our colleagues there assured us that we would have fusion technology, either here or in the Soviet Union, within the next 25 years. That would have taken us roughly to the late 1980s. We have not got there yet. I hope we will now, but we should not let the good news from California take our eyes off everything else we are doing to decarbonise our energy system.

Lord Teverson (LD): My Lords, I welcome fusion being mentioned in the Bill and I am sure the Labour amendment is reasonable. We had the big celebration at the Livermore lab in California, but I thought I read earlier this year that the tokamak at Culham had

[Lord Teverson]
achieved a similar thing for a split second. Clearly, I was wrong. I just want to welcome the recognition that we should still pursue this technology, despite, as the noble Lord, Lord Whitty, rightly says, it having taken a long time. The research must continue—we are part of ITER in France, which will be coming on—and I welcome this being in the Bill. The amendment seems quite reasonable. One thing that fusion does is spread an awful lot of neutrons around, which partly eat up the reactor itself, which could be of some danger.

Baroness Bloomfield of Hinton Waldrist (Con): I thank the noble Baroness, Lady Blake, and the noble Lord, Lord Lennie, for their two amendments, and the noble Lords, Lord Whitty and Lord Teverson, for their contributions. It is really interesting that the noble Lord, Lord Whitty, worked at Harwell. It has been a rolling 25 years for quite a long time, but I think we are now down to nearer 15 years, according to Ian Chapman of the UKAEA. The noble Lord is right to put in a note of caution. The noble Lord, Lord Teverson, is right: we did something similar in Culham, but I think that had similar input to output rather than greater output than input. Certainly, in terms of commercialisation, the UK is ahead of the pack and the rest of the world in developing commercial fusion and spherical tokamak projects.

I can reassure noble Lords that the Government consulted widely last year on the measure explicitly to exclude fusion energy facilities from nuclear site licensing requirements. Following the consultation, they decided that fusion energy facilities should not require nuclear site licences, as this is disproportionate to the hazards associated with them. Unlike fission, fusion does not produce very long-lived, high-level radioactive waste, and there is no risk of a runaway chain reaction. Existing processes of consenting and permitting are proportionate to the hazard of a fusion energy facility. That position was supported by a clear majority of consultation respondents, including the Office for Nuclear Regulation and the current regulators of fusion, the Environment Agency and the Health and Safety Executive. As that was all set out in a full consultation last year, we see no need to consult again on the same issue at this time. Without the amendment, there is a possibility that future fusion energy facilities could inadvertently fall under nuclear site licensing requirements. Those would be disproportionate to the hazards associated with fusion energy facilities, which are significantly lower than hazards associated with traditional nuclear facilities.

On the last point raised by the noble Baroness, Lady Blake, on what the Government are doing to encourage generation 4 reactors, I do not have that information in my notes, but I recall that the advanced nuclear fund is in the range of about £230 million. It is specifically geared at looking at other technologies, such as molten salt reactors—which use a different form of fuel, consisting of less than 5% enriched uranium—and high temperature gas reactors, which I am sure that my noble friend will talk about in relation to Japan.

With those few comments, I ask noble Lords not to press their amendments.

Baroness Blake of Leeds (Lab): I thank the Minister for her comments; we look forward to further information. With that, I beg leave to withdraw.

Amendment 129 withdrawn.

Amendment 130 not moved.

Clause 110 agreed.

Clause 111: Climate Change Act 2008: meaning of "UK removals"

Amendment 130A not moved.

Clause 111 agreed.

Amendment 130B not moved.

Clause 112: The Independent System Operator and Planner ("the ISOP")

Amendment 130C

Moved by ***Lord Lennie***

130C: Clause 112, page 100, line 7, at end insert "including the oversight of efficiency and loss reduction in cabling"

Member's explanatory statement

This amendment would give the Independent System Operator oversight of cabling efficiency and losses.

Lord Lennie (Lab): My Lords, most of the amendments in the group refer to Clauses 112, 114 and 116.

I will begin with Amendment 130C, which would give the independent system operator oversight of cabling efficiency and losses. As an electricity customer, you pay for what goes through your meter. You might also pay for peak demand or for when you take the power, but you mostly pay for how much power you use in total. If there are any losses before your meter, you do not pay; it is the electricity supplier's problem. In much the same way, if you have a water meter, you do not pay for water leaks outside on the road—not directly, anyway—because that is the water board's loss. However, you pay for leaks on your side of the meter; similarly, for electricity meters, you pay for cable losses in your own wiring.

In small installations, such as houses, shops and factories, the cable runs between the supply and the appliances have short electrical loads, so cable losses are usually small. However, in large factories, especially farms, electrical loads may be hundreds of miles away from the mooring—the incoming supply and electricity meter—so power losses can be quite significant. Producers tend not to realise that they are paying for that twice: first, the voltage drop means that equipment works less well—fans do not give as much throughput and luminaries do not give as much light—and, secondly, they are paying for the loss in the cable as well as in high electricity bills. Giving the ISOP oversight of that element would allow independent tackling of the position.

Amendments 130D, 130E and 130F in my name, and other amendments to Clause 112, would include certain distribution systems in the functions of the ISOP. Ofgem and BEIS suggested that the ISOP could

be responsible for taking greater roles in co-ordinating elements of heat and transport decarbonisation, for example in local energy mapping and planning. The ISOP could also co-ordinate across organisations—such as distribution and network operators, transmission operators, gas networks and government departments—to ensure a consistent strategic direction. These roles would be subject to further consultation.

4.30 pm

The co-ordination risks that emerge from choosing to create regional system operators is that the single point of accountability across the whole energy system would be lost, particularly if there were faults in multiple parts of Great Britain at the same time. Ofgem is conducting its review into the future of local energy institutions and governance, including framework options for enduring arrangements at local levels that cover regional systems operation. Any decisions on reforms would benefit from absorbing the outcomes of that review.

Amendment 131, to which the noble Lord, Lord Teverson, will speak, would require the ISOP not just to strategise and plan but to have a responsibility to deliver. The noble Lord's Amendment 134, to Clause 114, would ensure that energy efficiency is a core objective of the ISOP and that its plans and strategies take into account a circular economy model.

Amendments 134A and 138A, in my name, would require the ISOP to carry out its functions to promote a social objective, which is defined, to promote particular objectives, as in Clause 114, and to have due regard to certain principles, as in Clause 115. Social objectives and the need to balance the interests of energy workers are absent from the list in the Bill. As the Bill imposes a duty to promote competition, without a balancing amendment, the legislation could lead to a further race to the bottom in terms of pay, terms and conditions and outsourcing, which would undermine the network's ability to deliver a steady, sustainable supply of power for householders and industry.

Amendment 135, in the name of the noble Lord, Lord Foster of Bath, would include paragraph 21 of the Glasgow climate pact in the net-zero objective in Clause 114(2). Paragraph 21 is about limiting the temperature increase to 1.5 degrees, agreed at COP 26 in 2021.

Amendment 136, in the name of the noble Lord, Lord Teverson, defines security more broadly by including the concept of adequate capacity. His Amendment 138 would ensure that energy efficiency is a core objective of the ISOP and that its plans and strategies take into account, when appropriate, the circular economy model.

Amendment 146A seeks to insert a new clause after Clause 116 that would create a duty of collaboration between the ISOP and licensed distribution system operators. Amendment 156, in the name of the noble Lord, Lord Teverson, seeks to ensure that multi-purpose interconnectors are part of a strategic offshore grid.

Clause 112 introduces the concept of the ISOP and describes what it would do. It includes, in subsection (3), a representative but not exhaustive list of its internal functions and activities, and subsection (2) notes that functions will be typically conferred on the ISOP by legislation, including this Act or instruments made under legislation, for example, licences or codes. The ISOP has hitherto been referred to in consultation and other documentation as the future systems operator —the FSO.

Clause 114 sets out the ISOP's main objectives. Three objectives are listed, and the ISOP is required to carry out its functions in the way it considers would best achieve them. Alongside those objectives, Clause 115 states that when carrying out its functions, the ISOP must have regard to

"the need to facilitate competition"

and

"the desirability of facilitating innovation in relation to the carrying out of relevant activities".

It must also have regard to the consumer and

"the whole-system impact of a relevant activity",

as defined in the previous clause. I beg to move.

Lord Teverson (LD): My Lords, I thank the noble Lord, Lord Lennie, for having gone through my amendments, and very effectively too. I have five amendments in the group. They are key amendments, because I want to understand whether the ISOP will be effective.

Amendment 131 tries to put a bit of backbone into the ISOP. Clause 112(3) refers to what it is supposed to do. The words used are "co-ordinating", "administering", "planning" and "forecasting", but it does not state what it is actually going to do. It comes over as a think tank rather than a decisive organisation. That is why the amendment says that it has a responsibility to deliver its plans and strategies. I am thinking of organisations such as the Strategic Rail Authority, set up by the last Labour Government—we are talking about ancient history; I am trying to think of another network, and railways are quite a good one. They implemented it for a while, but then they decided to abolish it, because it did not manage to do anything. Great British Railways has now been put forward by the Department for Transport but, clearly, it is hesitating about doing it. Again, it is a strategic network authority, but everybody is trying to grasp what it will add and what it will do. I am trying to understand where the hard facts and actions are that will mean that the ISOP is taken any notice of. It may be able to do loads of work, like the Infrastructure Commission, for example, but that does not necessarily mean that anything will come out at the end.

On its website, Ofgem states that its vision is for

"an energy system to be on track for net-zero".

That sounds very similar to the objectives of the ISOP. What I do not understand is the relationship between the future ISOP and Ofgem, because they seem to have similar requirements in what they do. If they have different strategies, who wins? How does it work out? I seriously do not understand that and it needs to be resolved.

On the ISOP's objectives, I applaud the net-zero objective; I welcome that very much. I am more concerned about the efficiency objective, which seems to mix up energy efficiency and energy economy. Economy of energy is not the same as energy efficiency. As energy efficiency is a core objective of our net-zero targets, as

[Lord Teverson]
the Minister has agreed many times, it should be a separate objective. Sure, economic efficiency should be an objective too, but I see that as about being cost effective rather than being energy efficient; hence, I have separated them out.

Amendment 136 is about adding to energy security. Clearly, energy security is important, but one of the main challenges to the grid at the moment is not so much energy security, although that is important, as having the capacity to deliver. They are separate things. At the moment, we have a real challenge in the electricity grid's capacity to deliver in respect of new developments. There is a crisis at the moment, so I believe strongly that a capacity objective needs to be part of the security objective. As for energy efficiency, the circular economy needs to be within that, because that is the direction in which all these things are going.

I turn to Amendment 156 and the very different area of multi-purpose interconnectors. They are part of the strategic offshore grid and I am interested to understand where interconnectors fit in with the ISOP. Does it have a responsibility for those as well in terms of co-ordination? Interconnectors are absolutely core to how we plan our grid. Does the ISOP have to optimise its network plan with those multi-purpose interconnectors? If not, an additional costly and environmentally damaging network will be needed to integrate the MPI into the overall system. My question is really: how does that fit and how do the interconnectors fit?

What I am trying to get at—I am sure the Government are not trying to move any other way—is, in reality, when it comes down to it, what does the ISOP add to what we have at the minute? What does it do when it disagrees with Ofgem, and is it something about which we will be saying in five years' time, "Wow, that restructured our energy, got it right and delivered it"? That is what I am trying to understand.

Lord Foster of Bath (LD): My Lords, I pick up a point just made by my noble friend about interconnectors and declare that I live near the Suffolk coast, which will be seriously impacted by a number of energy projects—ones that the Environment Secretary, Thérèse Coffey, has now asked to be reviewed because of the onslaught of the various schemes, particularly in relation to how the energy will be brought onshore. I am also very pleased that my noble friend raised energy efficiency in Amendment 134. As the Minister knows, I have gone on about that and will bring forward further amendments on it later in our deliberations.

I will talk about my Amendment 135, which relates to climate change mitigation. It would update the duty of the ISOP in the light of the decisions made in Glasgow in 2021. Currently, the duties of the ISOP—as set out in Clause 114—include carrying out its functions in the way that it considers best calculated to enable the Secretary of State to

"meet the duties imposed by—

(a) section 1 of the Climate Change Act 2008 (net UK carbon account 10 target for 2050), and

(b) section 4(1)(b) of that Act (UK carbon account not to exceed carbon budget)."

In other words, the ISOP must carry out its functions in a way to help the Secretary of State meet our net-zero objectives.

However, those objectives were refined at Glasgow, where paragraph 21 of the pact recognises that

"the impacts of climate change will be much lower at the temperature increase of 1.5°C compared with 2°C and resolves to pursue efforts to limit the temperature increase to 1.5°C".

Amendment 135 would therefore add, after the duties imposed in Clause 114(2)(a) and (b), a new duty imposed by paragraph 21 of the Glasgow Climate Pact 2021. All three of our recent Prime Ministers have applauded and welcomed that paragraph, which was, I understand, written by Alok Sharma. Boris Johnson did so in a press release on 13 November 2021. Liz Truss, writing in the *Sun* on 30 October 2021 said:

"We are determined to see action on coal, cars, cash and trees to preserve our natural environment and limit global warming to 1.5°C above pre-industrial levels and prevent the worst impacts of climate change."

The current Prime Minister, Rishi Sunak, said on 7 November this year:

"I believe we found room for hope in Glasgow. With one last chance to create a plan that would limit global temperature rises to 1.5 degrees, we made the promises to keep that goal within reach. And the question today is this: can we summon the collective will to deliver them? I believe we can."

All three support efforts to limit the temperature increase to 1.5 degrees. Should noble Lords wish to read it, page 14 of the government document, *Net Zero Strategy: Build Back Greener*, justifies that. Given the Government's emphasis in government documents and statements from three Prime Ministers on limiting the temperature increase to 1.5 degrees, it makes sense for it to be part of the Secretary of State's duties and the duty of the ISOP to enable the Secretary of State to meet them. That is what this amendment does. I am sure the Minister will not disappoint the current Prime Minister or the two previous Prime Ministers, and I look forward to hearing how he is going to support this very modest amendment.

4.45 pm

Baroness Worthington (CB): My Lords, I will speak briefly to this group of amendments, as it is the first opportunity we have had to discuss the ISOP and its important function going forward. I congratulate the Government on bringing this forward. This is a well-drafted part of the Act. It certainly has clear priorities, and I am sure that, once enforced, it will be an additional facet that will help the UK to speed towards its objectives. I fully support it.

I have one question, which is similar to that of the noble Lord, Lord Teverson, in trying to better understand how this balancing act will occur in practice between the Secretary of State and the department; the private sector, which will be initiating projects; and the ISOP. To bring that into clear focus, I will put forward a practical project, if I may. Many of us will have heard about the audacious plan to link us to Morocco, with interconnection via a 1,000 kilometre-long, very low-loss cable—a dedicated source of generation benefiting from the very secure supply of solar and wind that exists in Morocco and that part of the world.

As I understand it, at the moment this decision is floating around and it is within the Secretary of State's gift to pass a CFD. I hope the Secretary of State will indeed decide that this is a project worthy of a CFD,

because I am sure it will be quite a low-cost option for us. How would the ISOP engage in such a project? How would it weigh up the various advantages that it might offer? What would the practical arrangements be between government agreeing to a CFD and tendering for such a project, and the ISOP taking on more of a research or advisory role? I would be very interested to hear from the Minister on that practical example.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): I thank all those who took part in the debate. It was a worthwhile exploration of the ISOP. Let me deal with the various issues that have been raised, starting with Amendment 130C, tabled by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake. It seeks to give the ISOP oversight of cabling efficiency and losses.

As our use of electricity grows, so inefficiencies will have a greater impact; energy dissipated from cables in the form of heat is a prime example. As part of its real-time management of the system, the system operator already considers the impact of losses across the network with no need for legislation, and that will continue to be the case for the ISOP.

Amendments 130D, 130E, 130F and 146A, again tabled by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, seek to include operating the distribution systems in the ISOP's functions and create a duty to collaborate. The relationship between the system operator on the one hand and distribution network operators on the other will evolve over time with better co-ordination to ensure optimal system-wide planning. It is the Government's view that a new collaboration duty is not necessary. The ISOP's whole-system duty already includes not just electricity or gas in isolation but their impact on each other, as well as on distribution networks.

Further reform concerning distribution system operation is currently being considered; noble Lords might be aware that Ofgem has issued a call for input. Legislating now is too early and risks pre-empting the outcomes of the work currently being undertaken in this area. This includes assessing and developing institutional and governance reform options for distribution system operation, with potential implications for how the ISOP co-ordinates with distribution system operators.

Amendments 134A and 138A, again by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, seek to include a social objective in the ISOP's main energy trilemma objectives. The first half of this objective seeks to protect customers who are already protected by the efficiency and economy objective. That objective seeks to protect consumers who are affected, or likely to be affected, by the behaviour of those engaged in relevant activities. This will include the impact on low-income households and the most vulnerable. Furthermore, the ISOP will of course be regulated by Ofgem. In Clause 129, we require Ofgem, when regulating the ISOP, to have regard to protecting the interests of existing and future electricity and gas consumers.

The second half of the amendment seems to entrust the ISOP with some sort of responsibility for the energy sector workforce. Industrial relations and the macro-economic labour impacts of energy and climate policy are obviously important issues, but I submit that they fall outside the competence of a technical energy sector body such as the ISOP.

I move on to Amendments 134 and 138 from the noble Lord, Lord Teverson. Noble Lords will know—it is certainly my strong view—that improving energy efficiency is vital, not only in helping to address the current energy affordability crisis, but, in the longer term, in helping to maintain security of supply and, ultimately, meet our decarbonisation goals. The Committee will be aware that to this end the Government have just announced the ECO+ scheme, with another £1 billion of additional funding to ensure that hundreds of thousands more households benefit from new home insulation and lower bills.

Recognising the importance of energy efficiency, we have explicitly included reference to it among the ISOP's primary duties in subsection (4)(b) of this clause. However, although it is an important contributing factor to bill reduction, we do not believe that it warrants an entirely separate primary duty.

These amendments would also insert a circular economy objective. Although I am sure that nobody will disagree on the importance of this issue, options to act on circular economy principles will be somewhat limited for the system operator. Adding this as part of a fourth core duty of the ISOP seems a distraction from the energy trilemma that it is being charged to manage.

Amendment 135 by the noble Lord, Lord Foster, seeks to add paragraph 21 of the Glasgow pact to the ISOP's net-zero duty. Again, I submit that this amendment is unnecessary and does not provide a helpful steer to the ISOP or strengthen its targets. The ISOP already has a net-zero duty and will deliver decarbonisation in its own operations and across the energy sector, thus enabling the Secretary of State to meet his objective under the Climate Change Act 2008. Paragraph 21 of the pact is expressed in the somewhat subtle language of international diplomacy, recognising and resolving to pursue efforts. It does not carry the strength of the legal obligation that we have already placed on the ISOP in this clause.

Amendment 131 by the noble Lord, Lord Teverson, seeks to give the ISOP responsibility to deliver on plans to develop networks. Our aim is that the ISOP will be an expert impartial body with responsibilities across both the electricity and the gas systems to drive progress towards net zero while, most importantly, maintaining energy security and minimising costs for consumers. Investment in our energy networks is vital, of course, and the ISOP will have a key role in planning the electricity and gas systems set out in licences.

However, this clause would move the ISOP from a planning role to a delivery role, which would appear to oblige the ISOP to make investments in the network itself or to usurp the role of the existing regulator. I know the noble Lord is keen that the ISOP is not conflicted, so investment by the ISOP is perhaps not his intention.

Lord Teverson (LD): The Minister's comments are very useful, and they are exactly what I wanted to understand. What I do not understand is why anybody should pay attention to the ISOP. If they do not, what happens? That is what I am trying to understand.

Lord Callanan (Con): It will have a crucial role in co-ordinating and running the network. I think the best way to answer the noble Lord's question is to say that the ISOP will take over a function that is currently operated by National Grid. The view was that National Grid is somewhat conflicted in that operation, so we thought it more appropriate for this to be done by an independent body. It is not really a new function as such; it is an existing function operated by a somewhat more impartial and non-conflicted body.

Returning to the amendment, if the noble Lord is envisaging the ISOP holding network companies to account for delivery, I would say that Ofgem is better placed to do that in its work as the regulator. Ofgem will allow a fair return and ensure strategic investment, where appropriate, but it will also hold back plans that appear to be poor value for money, balancing risks against saving money for consumers. That is the fundamental role of the regulator.

The ISOP could, of course, support decisions by the Government, Ofgem and other organisations by providing targeted advice based on its expertise on the impact of different potential decisions on the energy system. In answer to the noble Lord's question, Ofgem would remain the decision-maker on network investment plans submitted through the appropriate price control processes.

Amendment 136, in the name of the noble Lord, Lord Teverson, seeks to change the focus of the ISOP's core energy security objective to energy "adequacy". Energy adequacy focuses on the ability of generation assets to cover moments of highest demand and the ability of the transmission system to perform. Meeting these criteria will be the ISOP's core operational deliverable, and as it is being established on the existing capabilities of the electricity system operator—the ESO—it will contain a wealth of expertise and experience. The ESO also considers this at a strategic level and regularly publishes a wide variety of documentation on its current ability to meet these challenges as well as its short and long-range forecasts. I therefore thank the noble Lord for his amendment, but I prefer to keep the well-understood term "security of supply" rather than his alternative formulation.

On Amendment 156, I reassure the noble Lord that the Government fundamentally and deeply agree that multipurpose interconnectors should be considered as part of strategic network planning. However, strategic network planning will be the responsibility of the ISOP and is subject to ongoing reform under Ofgem's electricity network planning review, so requiring a certain approach to network planning through primary legislation would, I submit again, deny Ofgem and the ISOP the appropriate flexibility they need to adapt to what is a rapidly changing system that ultimately may require yet further reforms to network planning in the future. I therefore hope the noble Lord will agree that allowing Ofgem and the ISOP to have the appropriate flexibility would better meet what I think we both agree should be an objective.

I welcome noble Lords' contributions, but I hope that, given the assurances I have been able to provide the noble Lords, Lord Lennie and Lord Teverson, and the noble Baroness, Lady Blake, they will feel able not to press their amendments.

5 pm

Lord Lennie (Lab): My Lords, we will come to the social objective in group 4, so I will not deal with that here. We welcome the assurance about the ISOP's continued role regarding cabling losses and so on. As for what the ISOP would eventually do, I suspect that will be discovered, but I think the response was very useful. I noted the comments from the noble Baroness, Lady Worthington, about links to Morocco. Morocco are playing in the semi-final tonight and I wish them all the best in their game against France.

Amendment 130C withdrawn.

Amendments 130D to 131 not moved.

Clause 112 agreed.

Clause 13: Designation etc

Amendment 132

Moved by ***Lord Teverson***

132: Clause 113, page 100, line 24, at end insert—

"(1A) The person designated under subsection (1) must be a public body with no other roles or interests in the energy sector."

Member's explanatory statement

This amendment ensures that the ISOP is a public body, not an individual or a private company, and has no conflicting interests.

Lord Teverson (LD): When I read through this Bill for the first time, this was the area that had the greatest shock value for me. I was involved in the UK Infrastructure Bank Bill where, when it came to how the board or the organisation and everything was organised and chosen, and the whole governance side, there was a large number of pages. This Bill states:

"The Secretary of State may by notice designate a person as the ISOP."

There is absolutely nothing about how this is done or how it should be enacted. The Secretary of State does not have to consult anybody; he or she can get up in the morning, walk into the office, and say, "You will be the ISOP", and that will be fine. It seems to me entirely wrong and I very much like the amendment on this tabled by the noble Baroness, Lady Worthington. It is particularly ironic because this Bill has 120 pages of schedules and detail. Even on this section to do with the ISOP, it has eight pages of schedules around transferring assets, and it has six pages of detailed information about transferring pensions, and yet there is nothing about what this body is like. Amendment 132 would state in the Bill that it should be a public body and it should have no other energy interests, obviously, looking back, as the Minister said, to the ESO as it is at the minute and the various potential conflicts that there are. That needs to be at least a fundamental area.

The other thing that particularly struck me when I read through the Bill was that we have this independent system operator and planner, and yet there is nothing in the legislation that says it has to be independent. It is called independent, but there is nothing that I could see that says it is independent. I understand entirely that it has to take notice of strategies and other areas

that have been agreed at governmental level—I do not dispute that for a minute—so it has to have regard to the Secretary of State for certain things, but it needs to be independent and stated as such. That is what my Amendment 142 does.

Also missing is any form of accountability, apart from obviously to the Secretary of State. If this is an independent body, there clearly needs to be accountability. My Amendment 114 tries to solve that. I would be very happy for the Minister to offer alternatives, but I suggest that it needs to make a report to Parliament within the first 18 months of its establishment, and then annually.

It needs to state not just the delivery of the objectives, which are listed in the Bill, but a summary of the state of the energy networks as the ISOP sees it. That would be very useful. As we all know, we are going through a huge transition from a very centralised energy system to one that is widely distributed; we a moving from a system that has been based on fossil fuels since its inauguration to clean energy, renewal systems and offshore systems. It is a huge transition, and it is essential that the ISOP is able to report frequently or regularly on how it sees that transition. That would add great value.

I cannot see how the ISOP, given its importance, can be independent. It has to be a public body that reports not just to the Secretary of State but to Parliament on the state of the grid and the progression towards its objectives. I beg to move.

Baroness Worthington (CB): My Lords, I will speak to Amendment 133 in the group in my name and to support Amendments 132 and 133A, which have similar objectives.

I echo the comments made by the noble Lord, Lord Teverson, that simply calling it independent does not mean that it necessarily will be independent, unless provisions are put into the governance and appointment of the body that make it independent. With my amendment, I sought to come up with a version of independence—I am sure the Government could do a much better job, if they put their mind to it—which I borrowed from the model of the National Employment Savings Trust. The NEST is set up by government but is fully independent of government, and it overseas a pension fund for 10 million workers. There are similar potential conflicts in that it could be directed by government, or government could simply pack it with appointees. That is why I have adopted the wording of the amendment: to ensure that the process of creating the independent body is truly independent. That is where it came from, but if there are other versions that do a similar job, I would happily support those too.

It needs to be in the Bill. I do not think anyone wants to see a return to the days when the siting of power stations was decided purely on the basis of whose constituency it might get be built in and, similarly, the avoiding of constituencies where they might not like transmissions lines. You can foresee all sorts of political interferences coming in if this is not an independent body. In the current situation, there are conflicts because we have one private sector operator trying to do multiple jobs, so moving that function out of the national grid is a good idea. Politicising it would be a bad idea.

As I said, that is a very important part of the Bill, and I am very supportive of it, but there is an evident and obvious bit that is missing. I very much look forward to the contribution from the noble Lord from the Opposition who has a similar amendment—Amendment 133A—and to the Minister's response.

Lord Lennie (Lab): My Lords, I support much of what the noble Lord, Lord Teverson, and the noble Baroness, Lady Worthington, have said, and I will speak to Amendment 133A.

Clause 113 empowers the Secretary of State to designate a person—likely a company—by notice as the ISOP. It sets out that the person designed as the ISOP must state when it comes into effect, so we will know when it is done. We will be able to see it, touch it, smell it and test it out, but I suspect that we will not know much about it before then. The Secretary of State must ensure that, once the first ISOP has been designated, there is always one, and only one, person designated as the ISOP at a given time. The clause also empowers the Secretary of State to revoke the ISOP designation by notice, and again to state when the notice comes into effect. The Secretary of State must publish any designation or revocation notice, so if they screw up, they are out, and we will know about that too.

The Government and Ofgem state that achieving net zero requires co-ordinated expert advice and planning across gas and electricity as well as hydrogen, carbon capture, usage and storage and other technologies. They agree that this requires an independent system operator and planner, an expert and impartial public body with a duty to facilitate net zero while maintaining a resilient and affordable system. The ISOP must be independent and free from conflicts of interest. The Government intend to establish it as a public body with, as I understand it, operational independence from government and no commercial interests. Establishing the ISOP as an independent body would be consistent with day-to-day operational independence; with no commercial interests, the ISOP's advice will be impartial, accelerating energy systems decision-making for Ofgem and the Government in the best interests of consumers.

The Bill's Explanatory Notes indicate that the independence of the ISOP is supported by the Government, although some parliamentarians have said that they do not see independence embedded in the legislation. As we heard from the noble Lord, Lord Teverson, and the noble Baroness, Lady Worthington, they have tabled amendments to set standards for the independence of the ISOP. I would welcome the Government's observations on how that independence will be assured.

Lord Callanan (Con): I will start with Amendment 132 from the noble Lord, Lord Teverson, which seeks to make the ISOP a public body without roles or interests in the sector. I agree with the sentiment of the amendment. There is a long list of reasons why the ISOP should be a public body, and I will not seek to rehearse the arguments. Suffice it to say that the Government have resolved to make this so, and enshrining this in legislation is unnecessary.

[Lord Callanan]

Furthermore, the requirements in the amendment to have no other roles or interests in the energy sector are limiting; they do not cater for the range of possible new roles which it might be beneficial for the ISOP to be involved with in future. For example, this amendment would question Ofgem's ability to modify the ISOP's licences to give it a new role in seeking to address any new sets of circumstances that might arise in the market.

Amendment 133, from the noble Baroness, Lady Worthington, seeks to ensure independence for the ISOP by setting specific rules in its constitution. Again, the Government agree that it will be important to ensure that the ISOP has operational independence from government. The most effective model for realising our vision for an independent ISOP is to establish it as a public corporation, in the public sector but outside central government, as a limited company with the Secretary of State as the sole shareholder but not the chair or a director and with Ofgem providing transparent and independent regulation.

We will not shy away from allowing the ISOP the freedom it needs to manage and organise itself to deliver its roles and objectives. However, particularly given that we are working within the framework of the electricity and gas licensing regimes and existing company law, we do not think that primary legislation is a suitable vehicle for detailing the arrangement of appointments. Instead, it would be preferable to provide for this in detail through the licence, articles or framework document.

Amendment 142, from the noble Lord, Lord Teverson, seeks to create blanket independence from government except via the strategy and policy statement. I am sure the noble Lord will recognise that this is a very broad approach to quite a nuanced issue. For instance, the ISOP will be a limited company with the Secretary of State as the sole shareholder; he or she would hold ultimate responsibility for the effective corporate governance of the organisation. The nature and limits of the Government's role need to be constructed carefully and will be clearly and transparently described in the ISOP's foundational documentation, which we expect to make public. I am pleased to be able to confirm to noble Lords that the ISOP will sit outside central government control, giving it the operational freedom that will be needed to manage and organise itself.

5.15 pm

Amendment 133A, from the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, seeks to ensure the independence of system and distribution operators. Independence from day-to-day government control and other energy sector interests had strong support during our consultation. The ISOP will routinely consult with and utilise the expertise of energy sector participants, but inserting in legislation a formal oversight role such as this effectively places decision-making back in the hands of that sector. Doing so could make the ISOP risk-averse and unwilling to take action that is beneficial to the system or consumers but potentially challenging to market participants. We expect to place a requirement in licence for the ISOP's board to contain a sufficient number of independent directors, which should help to ensure independence.

Finally, Amendment 144 from the noble Lord, Lord Teverson, requires the ISOP to report to Parliament on its performance, the state of the networks and future challenges. Again, it is the intention of the Government that the ISOP will be a valuable source of expert information and guidance, just as the electricity system operator, or ESO, is today. The ESO reports against its objectives to Ofgem, which makes careful, considered and, importantly, public assessments of licence holders' performance. The ESO already publishes the network options assessment, which considers the current state of the networks and makes recommendations for improvements. It also publishes a wide range of documentation on future challenges, most famously its excellent and widely read Future Energy Scenarios. The ESO already makes public all the information this amendment requires. If we are being sensible, repeated requests for reporting would only push up costs for the bill payer without any obvious benefit.

As such, I do not support this set of amendments and ask noble Lords not to press them.

Lord Teverson (LD): My Lords, I thank the Minister for going through that. I can just about accept the bit about communication, because that is likely to happen anyway from a public body. However, I genuinely find the primary legislation here amazingly loose. I get the bit about putting a lot of these conditions into the licence for the ISOP, but this concerns independence and how the selection takes place. As the noble Lord, Lord Lennie, said, we have detail on how to get rid of the ISOP, but no detail on how to recruit it. I would think that the Government would want to put in something more concrete on how the ISOP will be chosen and what nature of body it should be, and something to enshrine its independence. I would have thought that was in the Government's interest, because they will not be the Government for ever, and who knows what future Governments or Secretaries of State might want to do?

I feel very strongly that this Bill needs to be better here. I would be very disappointed if the Minister or the Government did not, at some point during the passage of this Bill, put a little more flesh on the bones. It is good public practice to do that and be clear. Somewhat exasperatedly, I withdraw the amendment.

Amendment 132 withdrawn.

Clause 113 agreed.

Amendments 133 and 133A not moved.

Clause 114: Duty to promote particular objectives

Amendments 134 to 136 not moved.

Amendment 137

Moved by ***Lord Teverson***

137: Clause 114, page 101, line 15, leave out "to existing and future consumers" and insert "and that the market works efficiently in providing supplies to existing and future consumers, including enabling flexible consumption,"

Member's explanatory statement

This amendment seeks to strengthen obligations on the ISOP to invest in innovative technologies.

Lord Teverson (LD): My Lords, I will not detain the Grand Committee hugely on these amendments, which in many ways are probing. They propose that the ISOP really needs to keep an eye on future technical and IT advances and all the opportunities that come from them, and to get over decision-making that in many parts of the energy infrastructure has been very much supply-side dominated in the past; we have all come across this. We really need recognition that there needs to be a focus on the demand side as well as that supply. I am trying to understand whether the ISOP will have strong incentives to adopt new digital technologies. Will we have good emphasis on that demand side, as opposed to the supply side? I am really just looking to see how the Minister responds. I beg to move.

Lord Lennie (Lab): My Lords, I return to the situation of the workforce in the debate on these amendments. Clauses 114 and 115 set out important parts of the ISOP's remit. While the list in the Bill may not be exhaustive, the items prescribed will influence the new body's behaviour. We support the need for the ISOP to have and promote environmental and other listed objectives. These amendments arise from a concern that the ISOP will not have a duty to consider social objectives.

There is a particular concern in the case of Clause 114, which sets out a requirement for the ISOP to promote economy and efficiency without a countervailing duty to promote social objectives. The GMB union, which represents gas and electricity workers, tells us that this clause could be interpreted as a mandate to pursue lowest-cost levels in the short term, which could lead to a great reliance on outsourcing and job cuts to make the books meet. The amendment attempts to remedy that concern.

It also seems like an inconsistency in the Bill to include consumer objectives in Clause 115 but not in Clause 114, which imposes a stronger duty on the ISOP. Our amendment would also place a duty on the ISOP specifically to consider the interests of low-income households alongside its more general duty to consider consumer impacts overall.

The energy sector faces significant workforce challenges. The Engineering Construction Industry Training Board has warned that an ageing workforce poses a risk to meeting the UK's environmental objectives. The vacancy rate is higher in the utilities sector than across the whole economy, according to this week's ONS estimates. Positive industrial relations in the energy sector will be an important component of the just transition that the Government say they want to achieve, and these amendments would support that aim.

Lord Callanan (Con): My Lords, I understand from the statement by the noble Lord, Lord Teverson, that his Amendments 137, 139 and 140 are probing amendments, but I will seek to provide some clarity on the Government's intention. The amendments seek to strengthen obligations on the ISOP, in particular requiring it to consider the need for investment in innovative technologies.

I start with Amendment 137. The ISOP will need to judge how to balance the three trilemma duties set out in Clause 114 as the needs of the sector develop and situations arise. We have not sought to place any one trilemma duty above another. There is no need to insert, within the security of supply duty, a further duty towards efficiency; it is already contained in the efficiency duty. These two objectives sit on an equal footing, and adding a further efficiency requirement risks creating an imbalance between them. They are both important.

A flexible energy system will be a vital characteristic. That is why flexibility is already included in this core duty towards efficiency via subsection (6)(c). I hope the noble Lord feels reassured that the Government are well aware of the potential benefits that flexibility can bring and that the Bill has been drafted to reflect this.

I turn to Amendment 139. As a newly independent body, the ISOP will help to shape the energy system and to drive competition while taking a whole-system approach. Energy efficiency is one important aspect, but in our view the ISOP should be unfettered in making its own expert judgments about how to balance energy efficiency alongside the many other important factors that it will need to consider when seeking optimal whole- system outcomes. We should seek to trust the judgment of the ISOP in its whole-system considerations and avoid presupposing or placing constraints on its thinking on these matters.

Turning to Amendment 140, we want the ISOP not only to be on the leading edge of innovation but to seek out where it might facilitate innovation across the sector. Technology is an important part of this, but, again, adding this wording may undermine or undervalue the adoption of new business models, ways of working or other types of innovation. Predictive capabilities will help the ISOP to balance the system. For instance, meteorological forecasting helps to gauge renewable energy supply. However, the amendment appears to extend this to other energy sector actors, which may not prove an efficient use of billpayer funding.

Lord Teverson (LD): I thank the Minister for that. It was most useful. He has mentioned the energy trilemma twice during this session, and I am interested in whether he still believes that there is an energy trilemma, or whether renewables deliver both security and the lowest cost.

Lord Callanan (Con): Certainly at the moment, at the current state of operation, they deliver the lowest cost. I am not sure that they deliver security, given that, by their very nature, they are intermittent. That is why, as I constantly say, we need a diverse system—including nuclear, for the benefit of the noble Baroness, Lady Sheehan.

Amendment 141A, in the names of the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, seeks to include consideration of the workforce impact of a relevant activity in what the ISOP must have regard to when carrying out its functions. We have already discussed the workforce today in the second group of amendments—the GMB will be very impressed that the noble Lord, Lord Lennie, has raised it in two different groupings—so I do not intend to revisit those arguments at length. Suffice it to say that we believe they fall outside the competence of a technical energy sector body such as the ISOP.

Lord Moynihan (Con): To pick up on the point made by the noble Lord, Lord Teverson, I appreciate that in the context of this amendment the question of resources is critical, but how will the ISOP be at the leading edge of technology, and how will it be able to anticipate the challenges of new technology with existing thoughts about resource? Can the Minister give us a little more knowledge about how much resource will be available to achieve that objective, and what type of resources he anticipates the ISOP will have?

Lord Callanan (Con): I am not quite sure what point my noble friend is making. There will, of course, be a variety of sources; the whole point about this is that we do not want to constrain what sources might be available in the future. We are setting this legislation potentially for decades to come. We had a discussion in the House earlier today on fusion technology; I do not know whether my noble friend was there. My noble friend Lady Bloomfield also led a debate about it. It may not be many years away, but we do not know at this stage whether it will be a viable source of power. It may turn out to be a wonderful invention and make other sources redundant.

5.30 pm

The whole point is that we need to build flexibility into the system. We can plan only on what we know we have available and what is coming on stream, but this legislation could exist for many years, possibly decades, to come, so the important thing is to give bodies such as the ISOP and Ofgem the flexibility to adapt to new technologies.

Lord Moynihan (Con): Just to help the Minister, my interest is really the financial and manpower resource that is available to the ISOP to undertake what is a very significant role in the context of advising government on how to be at the leading edge of innovation and which appropriate technologies to pursue. My question was more about whether it will be sufficiently well resourced for that and what opportunities we will have to ensure that it is satisfactorily resourced.

Lord Callanan (Con): The source of funding for the ISOP will come from Ofgem and will be regulated by Ofgem. Ultimately, of course, the funding will come from billpayers, so it is important that Ofgem has that regulatory function. It will need to balance the difficult objective of making sure that the ISOP is appropriately funded with the fundamental point that it will all come back to the funding by billpayers eventually.

Lord Teverson (LD): This is a useful debate. Is the Minister saying that the ISOP's budget will be agreed by Ofgem? That will be the negotiation. Is that right? Is that how it will work? Will it be Ofgem, not the Secretary of State, that agrees the budget and resources for the ISOP?

Lord Callanan (Con): Yes, that will be a requirement. The licence will be agreed, but the actual funding will be determined by Ofgem.

Lord Moynihan (Con): Can we pursue this a bit further? If it is to be independent, and if it requires a budget in order to meet what it believes to be its goals, it is constrained in those objectives by its relationship with Ofgem, despite the fact that the Secretary of State has appointed the ISOP. Is that correct?

Lord Callanan (Con): There will have to be some constraint on the funding. Ofgem agrees the funding for a number of different system operators and bodies, and it will also do so with the ISOP. If the Committee is interested in this, perhaps I can set out in detail in writing how we envisage this funding stream working, if that would be helpful to noble Lords.

Amendment 141 would add consideration of the Climate Change Committee outputs as a fifth duty. The ESO today closely follows the CCC's work and analysis. The 2022 *Future Energy Scenarios*, published by the ESO, extensively quotes the CCC. It makes use of CCC charts, discusses its forecasting, takes on board its assumptions and even builds upon the CCC's pathways in its own analysis. The recommendations of the Climate Change Committee will continue to provide a useful source of information for the ISOP.

Amendment 146 would require that, if giving notice to government that a policy outcome in the strategy and policy statement is not achievable, the ISOP will consider the latest science and CCC opinion. The Government will write the strategy and policy statement as guidance to the ISOP. As described, the ISOP will of course be well aware of CCC opinion. It is not readily apparent what benefit would be brought by a further duty on the ISOP to consider the CCC's opinion when telling the Government that it does not believe that it can deliver on an objective.

For clarity, the Bill makes provision for two separate strategy and policy statements: an energy statement that will provide guidance to Ofgem and the ISOP and a separate carbon capture usage and storage statement. The energy statement was originally legislated for to provide guidance to Ofgem under the Energy Act 2013. Clause 116 of this Bill modifies that Act to provide guidance also to the ISOP. In preparing a CCUS statement or undertaking a review of an existing CCUS statement, the Secretary of State must take account of the energy policy statement if it is in effect. This is to ensure coherence.

I welcome the contributions and hope that, given the reassurances I have provided, noble Lords feel able not to press their amendments.

Baroness Sheehan (LD): Before the Minister sits down, I will make a general point. This will be a transformative time for the energy sector, which will require an independent system operator and planner that is truly independent and accountable and has no conflicting interests. At the moment, it seems that the Government are looking at an ISOP that is more suited to a steady-state situation, which is not what we are in. I hope that they will take that point into account.

Lord Callanan (Con): I will certainly take that point into account, although I do not necessarily agree with the noble Baroness; it is intended to be an independent system operator—the clue is in the title—but the point I made earlier is that we want to give it sufficient flexibility to take account of any new developments coming onstream.

Lord Teverson (LD): I thank the Minister for his comprehensive reply to my probing amendments and would very much welcome his writing to clarify some of these areas. I had not really thought through the funding of the ISOP before Committee; I am trying to think through the conflicts of interest between Ofgem and the ISOP. As we all know, the person who agrees the budget rules the body that receives it. I understand from what the Minister has said that Ofgem can effectively accept or reject ISOP recommendations, but it seems to me that, unless something in the licence or primary legislation says that the ISOP needs some degree of budget to carry out its functions—indeed, is rather more specific than that—the client-master relationship could be a real problem, so I want to think that through. In the meantime, I thank the Minister for his response and beg leave to withdraw my amendment.

Amendment 137 withdrawn.

Amendments 138 and 138A not moved.

Clause 114 agreed.

Clause 115: Duty to have regard to particular matters

Amendments 139 to 141A not moved.

Clause 115 agreed.

Clause 116: Duty to have regard to strategy and policy statement

Amendments 142 to 146 not moved.

Clause 116 agreed.

Amendment 146A not moved.

Clause 117: Licensing of electricity system operator activity

Amendment 147

Moved by ***Lord Callanan***

147: Clause 117, page 105, line 4, at end insert—

"(11) In section (Modifications of licences etc) of this Act (modifications of licences etc)—

(a) in subsection (1)(a) for "of the Electricity Act 1989 (transmission licences)" substitute "or (da) of the Electricity Act 1989 (transmission and electricity system operator licences)";

(b) in subsection (1)(c), for "6(1)(b)" substitute "6(1)(b) or (da)"."

Member's explanatory statement

This amendment amends new clause (Modifications of licences etc) to take account of Clause 117(4).

Amendment 147 agreed.

Clause 117, as amended, agreed.

Clauses 118 to 123 agreed.

Clause 124: Duty to keep developments in energy sector under review

Amendment 148 not moved.

Clause 124 agreed.

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): That brings us to Schedule 10. Hold on. I am being pointed at by the clerk. Let us pause for a moment. The tension builds. What have I missed out? Noble Lords can speak among themselves for a moment. I will have a wee seat and try to work out what on earth I have done wrong—not very much, I hope.

We will adjourn for five minutes. If we do not, this could go badly wrong. The professionals will come on and sort the entire thing out.

5.43 pm

Sitting suspended.

5.46 pm

Clause 125 agreed.

Schedule 6 agreed.

Clause 126 agreed.

Schedule 7 agreed.

Clauses 127 to 130 agreed.

Schedule 8 agreed.

Clauses 131 to 151 agreed.

Schedules 9 and 10 agreed.

Clause 152 agreed.

Schedule 11: Minor and consequential amendments relating to Part 5

Amendment 149

Moved by ***Lord Callanan***

149: Schedule 11, page 257, line 3, at end insert—

"Energy Act 2022

12 In section (Modifications of licences etc)—

(a) after subsection (1) insert—

"(1A) The Secretary of State may modify—

(a) a condition of a particular licence under section 6(1)(g) of the Electricity Act 1989 (code manager licence);

(b) a document maintained in accordance with the conditions of licences under section 6(1)(g) of the Electricity Act 1989, or an agreement that gives effect to a document so maintained.";

(b) in subsection (2)(a)—

(i) after "7", insert "or 7AC";

(ii) after "transporters" insert "or code manager licence";

(c) in subsection (2)(c), after "7" insert "or 7AC";

(d) in subsection (7), after "(1)" insert ", (1A)"."

Member's explanatory statement

This amendment amends new clause (Modifications of licences etc) to take account of clauses 136(6) and 137(7).

Amendment 149 agreed.

Schedule 11, as amended, agreed.

Clause 153: Competitive tenders for electricity projects

Amendment 149A

Moved by ***Baroness Blake of Leeds***

149A: Clause 153, page 127, line 20, at end insert—

"(2) Strategic transmission network projects that are—

(a) identified in the Electricity networks strategic framework,

(b) built ahead of need whilst long term good value for money, and

(c) in the opinion of the Secretary of State essential to support renewable and energy security objectives,

are not subject to the competitive tender process."

Member's explanatory statement

The fact sheet accompanying the Bill states that the Government are proposing to exempt 'upfront certain strategic transmission network projects' from the competitive tender process for electricity. However, there is not any government guidance on what will be exempt and how. This amendment seeks to put this into legislation.

Baroness Blake of Leeds (Lab): Amendment 149A, in my name and that of my noble friend Lord Lennie, concerns the Government's proposals to exempt

"upfront certain strategic transmission network projects"

from the competitive tender process for electricity. The comprehensive fact sheet that goes with this part of the Bill makes clear—note that these are its words, not mine—that

"Introducing competition will provide new opportunities to invest in networks where it is efficient to do so. The creation of a new competitive market should improve efficiency in investment, foster innovative solutions to network needs, including increasing the opportunities for smart and flexible solutions, and reduce costs to consumers. This is also expected to encourage greater levels of inward investment into electricity networks, to help provide sufficient additional network capacity to meet growing demand in Great Britain."

The Bill will achieve that, because the measure will enable competitions to be run for the building, ownership and operation of onshore electricity networks in Great Britain, building on the existing competition regime for offshore transmission assets. It will take powers to enable the Secretary of State to appoint a body to run tenders and to set criteria to determine a network project's eligibility to be competed. It will also extend Ofgem's power to make regulations that will set out the process by which the tenders will be run.

The relevant paragraph—I will quote it in full—states:

"Once competition is in place, the time taken to compete projects can be taken into account at an early stage to avoid any delay to the overall process from identification of need to commissioning. However, for projects beyond a certain stage of planning at the point that competition comes into effect, delays from competing and/or uncertainty about the applicability of competition could be unavoidable. For this reason, Government proposed in the British Energy Security Strategy to exempt upfront certain strategic transmission network projects during a transitional period after competition is introduced."

The argument is that

"This will provide certainty to the market and encourage strategic investments to proceed apace to support our renewable electricity and energy … objectives. Further detail … will follow in … response to … consultation on competition".

The reason for our amendment on that part of the Bill is that we are concerned about the lack of clarification on how the implementation will be brought forward, and we believe that Amendment 149A would achieve that. We have mentioned several times in the debate the need for transparency and good governance, and our hope is that everyone will approach the matter on a level playing field so that everyone can make decisions in an open way. We believe that the amendment is straightforward, and we hope that the Government will accept it and, as such, put it into legislation. I beg to move.

Baroness Worthington (CB): My Lords, I will speak briefly to the group of amendments beginning with Amendment 153, merely to state the obvious: that it is a good thing. I hope that the introduction of competition will get us around some of the blockages we are experiencing at the moment, where many projects have received planning consent and have the right payments and investments in place but transmission and grid connection are holding them up. I sincerely hope that competition will successfully unlock more projects and more private investment in the system, which will mean that those projects are connected.

I have one question for the Minister. A lot of the detail on how that will operate is obviously in the schedule, but the schedule itself refers to regulations, so when can we expect to see those regulations? I understand that a consultation is currently open, but I would be very grateful for any indication as to how long we will wait before that happens.

I understand the points just made by the noble Baroness opposite about needing greater clarity. I hope we will get that through the regulations. In one way, I am very happy that in the interim period some projects will be maintained in the current form without the opening up of competition. However, I am also a bit wary that that might slow down the opening up of the broader market, so I am not inclined to support the amendment as drafted, although I understand the general principle that more clarity is better than less.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I will speak to Amendments 150 to 155 in the name of my noble friend the Minister, Lord Callanan. These are minor and technical amendments to ensure that the competitive tender regime for onshore networks and the energy network special merger regime function effectively.

Amendment 150 clarifies which regulated activities can be tendered for under the onshore electricity network competition regime set out in Schedule 12 to the Bill. Paragraph 2 of Schedule 12 sets out which types of electricity project are eligible for competition on electricity networks. The Government intend that an entity that requires a licence for system operation will not be eligible for competition. This is because that body oversees electricity balancing and flows across the country, in a co-ordination role.

As it stands, the legislation incorrectly cross-refers to an independent system operator licence, rather than the existing system operation licence. Amendment 150 will correct this, thereby ensuring that the competition regime will be fit for purpose as soon as it receives Royal Assent.

Amendment 151 changes part of Schedule 12 to the Bill, which amends the Electricity Act 1989. As it stands, this part incorrectly refers to Section 6CB(2) of

the Electricity Act 1989 when defining when a person can be considered to have made a connection request. This should instead refer to Section 6CC(2).

Amendments 152 to 155 ensure that the Competition and Markets Authority can address any adverse effects that have arisen or may arise from the substantial prejudice identified from a relevant merger. This is consistent with the general UK merger regime and the equivalent special merger regime in the water sector. Without these technical amendments, the Competition and Markets Authority would be able to address only the substantial prejudice to Ofgem's ability to regulate network companies at source and not the adverse effects that arise from it. Accepting these amendments would mean that the wording in the new regime was more consistent with the existing powers in the wider merger landscape in the United Kingdom, where adverse effects are already in scope. I hope that noble Lords will agree that these minor and technical amendments are necessary to ensure that the two new regimes operate as intended.

I turn to the other amendment in this group, Amendment 149A, tabled by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake. It seeks to add to Clause 153 exemptions from competition for certain strategic transmission network projects. The Government recognise the importance of clarifying which projects are within the scope of competition and which are to be exempt so that network companies can proceed at pace with arranging their project plans and supply chains. The Government have stated the importance of achieving this clarity in various publications this year, including the electricity networks strategic framework, which the noble Lord and the noble Baroness have referred to in their amendment. In this, the Government committed to exempt certain strategic projects from competition to achieve certainty for industry and to help achieve net-zero network delivery.

The strategic framework did not, however, identify specific projects in the way that the amendment suggests. Ofgem has since consulted on specifically which projects to exempt from this, and the Government have worked closely with it during its consideration of responses. Ofgem will publish a list of projects to exempt by the end of this year.

It is the Government's opinion that it is best to set out the criteria to determine a project's eligibility for competition in regulations. The type of network project suited to competition in the interest of enabling savings for consumers may change over time. For example, one criterion for late-stage competition, set out in our indicative draft statutory instrument laid before the House, is that the project should have a value equal to or over £100 million. This is because this is the price of projects where we expect to find savings when the project is completed. This threshold may reduce in future as competition becomes embedded in network regulation, so tender costs could reduce.

Establishing the criteria in the Bill would prevent the Government reacting to changes in market conditions. Beyond this, the amendment is unnecessary because it would duplicate existing policy work to exempt certain strategic projects. It could even potentially confuse the process of exempting those strategic projects by creating another avenue for exemptions beyond projects falling outside existing criteria in secondary legislation, which Ofgem will apply to projects to determine their eligibility. I ask the noble Baroness to withdraw her amendment.

6 pm

Baroness Blake of Leeds (Lab): I thank the Minister for the clarification on the technical issues raised under the government amendments. I wonder whether there has been some slight movement in this area. The point still stands that in the long term transparency and good governance must be paramount, but with those comments, I withdraw the amendment.

Amendment 149A withdrawn.

Clause 153 agreed.

Schedule 12: Competitive tenders for electricity projects

Amendment 150

Moved by ***Lord Callanan***

150: Schedule 12, page 257, line 23, leave out "section 4(1)(ca)" and insert "section 4(3A)(a)"

Member's explanatory statement

This amendment ensures that the cross-reference in new section 6BA(3) of the Electricity Act 1989 (inserted by paragraph 2 of Schedule 12 to the Bill) is to section 4 of that Act as it currently stands.

Amendment 151

Moved by ***Lord Callanan***

151: Schedule 12, page 266, line 40, leave out "section 6CB(2)" and insert "section 6CC(2)"

Member's explanatory statement

This amendment fixes an incorrect cross-reference in the amendment made by paragraph 5(5) of Schedule 12 to the Bill to section 6F(8) of the Electricity Act 1989.

Amendments 150 and 151 agreed.

Schedule 12, as amended, agreed.

Clause 154 agreed.

Schedule 13: Mergers of energy network enterprises

Amendment 152

Moved by ***Lord Callanan***

152: Schedule 13, page 278, line 39, leave out from "for" to "there" in line 40 and insert ""lessening of competition" (in each place it appears)"

Member's explanatory statement

This amendment, and the other amendments in Lord Callanan's name in relation to Schedule 13, amend the inserted Schedule 5A for the Enterprise Act 2002 (which modifies Chapter 1 of Part 3 of that Act as it applies in relation to energy network mergers) by bringing the modifications into line with the wider regime for mergers.

Amendment 153

Moved by ***Lord Callanan***

153: Schedule 13, page 279, line 20, leave out from "for" to "there" in line 21 and insert ""lessening of competition" (in each place it appears)"

Member's explanatory statement

See the explanatory statement for the amendment in Lord Callanan's name at page 278, line 39.

Amendment 154

Moved by ***Lord Callanan***

154: Schedule 13, page 279, line 29, leave out from "subsection" to end of line 31 and insert "(2)(a) and (b), for "lessening of competition" there were substituted "prejudice""

Member's explanatory statement

See the explanatory statement for the amendment in Lord Callanan's name at page 278, line 39.

Amendment 155

Moved by ***Lord Callanan***

155: Schedule 13, page 279, line 32, leave out from "for" to "there" in line 33 and insert ""lessening of competition""

Member's explanatory statement

See the explanatory statement for the amendment in Lord Callanan's name at page 278, line 39.

Amendments 152 to 155 agreed.

Schedule 13, as amended, agreed.

Clause 155 agreed.

Clause 156: Standard conditions for MPI licences

Amendment 156 not moved.

Clauses 156.

Clauses 157 to 160 agreed.

Schedule 14 agreed.

Clause 161: Extension of domestic gas and electricity tariff cap

Amendment 156A

Moved by ***Baroness Blake of Leeds***

156A: Clause 161, page 134, line 9, at end insert—

"(7) In section 12 (Interpretation) after "wholly or mainly for domestic purposes" insert ", including the supply of gas or electricity to any common parts of a building where the primary purpose is domestic dwellings""

Member's explanatory statement

Currently the supply of gas and electricity to the common parts of blocks of flats (for example, corridors and outdoor lighting) is deemed to be commercial. This amendment reclassifies such supplies as domestic, extending default tariff protection to them.

Baroness Blake of Leeds (Lab): The amendment is in the name of my noble friend Lord Kennedy. Currently, the supply of gas and electricity to the common parts of blocks of flats—corridors and outdoor lighting, for example—is deemed to be commercial, and this amendment seeks to reclassify such supplies as domestic, which would then extend default tariff protection to them.

We accept that Clause 161 has been superseded by the Energy Prices Act. We note that in the clause the Government propose to give themselves the power to impose price caps on communal and district heating networks. We see this as a good thing, because they are also uncapped, and people are seeing large price rises.

We know that the supply of mains gas and mains electricity to the common parts of domestic buildings is deemed to be a commercial supply. This, in practice, means that the freeholder or managing agent enters into a long-term commercial contract for the mains supply to the common parts. This is an interesting area, and I would be interested to hear the Minister's response. Such supplies are taxed at 5% VAT and are exempt from the climate change levy in the same way as mains supplies to a house. Is it not also the case that the same gas and electricity mains supply the flats in the building, and the flats are all subject to the Ofgem price caps?

As with everything else in leasehold, there can sometimes be an undisclosed fee or commission for the landlord or managing agent to arrange the supply to the common parts. These contracts also allow other charges to be passed on. I therefore have a rather simple question for the Minister: will the Government extend the gas and electricity price caps to mains gas and electricity supplies in common parts of buildings containing two or more flats?

I look forward to discussions on further amendments in this group tabled by the Government, the noble Lord, Lord Teverson, and my noble friend Lord Whitty.

Lord Whitty (Lab): My Lords, as my noble friend has just said, Amendment 159 in my name is in this group and deals with the issue of a social tariff. We are well aware that earlier forms of social tariff, which were non-mandatory and non-general, had some benefits, but did not fully meet the needs of vulnerable consumers.

Last year, I chaired a commission that did a job for Energy UK on vulnerable consumers, which indicated considerable disadvantage to them even before the present heights in fuel prices. Our report was accepted in broad outline by the energy companies—Energy UK being the trade association—and many have adopted aspects of it relating to their customer service and how they deal with vulnerable consumers. By "vulnerable", I am talking about those who are vulnerable due to economic, social or health limitations. The companies have accepted most of the recommendations in relation to services and the way that they deal with individuals, but they have not addressed their tariffs.

This proposed new clause intends to put an obligation on the Minister to start planning for the introduction of a social tariff—or mandatory revision of social tariffs—so that we deal with this through the structure of the actual tariffs and prices paid by different consumers. This is not a new concept but, if it were generalised in this way, with effective planning during the period when we will probably continue to have substantial government intervention of the kind that we have seen in recent weeks, we could get to a steadier state of

tariff determination by the well-planned adoption of a system of social tariffs. They are more effective than price caps or any temporary interventions by the Government—welcome though those are—and would mean that tariffs for defined groups of consumers were geared to their needs in particular.

The form of social tariff is not prescribed in detail in my amendment, but the NEA, of which I am a vice-president—I should have declared an interest at an earlier stage—has drawn up, along with Fair By Design, a new social tariff that must satisfy a number of conditions. First, we would have a system of auto-enrolment of all eligible consumers; this can be done with the suppliers' existing databases, including stepping up the effectiveness of the priority registration scheme—which still needs some serious attention—and by cross-reference to DWP records. The new scheme would be in addition to the warm home discount and default price cap, because they perform different functions that cannot be replicated by a general cap. The system would be mandated across all suppliers, which would mean that those who qualify for a social tariff would not lose out because their supplier has not gone as far as other suppliers.

The tariff will be targeted at those who are most in need—either because of low income or because they are vulnerable households in terms of requiring more heat or using and controlling their heating system—and, in particular, at those who use prepayment meters. As noble Lords will know, they are currently seeing significant detriment in the market as a result of the present situation. They must be a priority group who would benefit from the introduction of a social tariff. It must also reduce the costs for the designated consumers. The new social tariff must help vulnerable consumers reduce their overall energy costs and must be protected and priced below the default tariff price cap level.

This intervention could take different forms. That is why we are calling for the Minister to be obligated by the adoption of this amendment to introduce a plan for social tariffs that will follow the period of substantial interventions that we have seen since the Bill first appeared before this House. They were welcome interventions but are, essentially, temporary. We are looking at a much longer-term provision that would look after all vulnerable consumers as far as possible. It would oblige suppliers to identify them and offer the social tariff to them. This would be a more permanent solution. It needs planning and it needs to close the definition, but we should start the process by putting a requirement in the Bill for Ministers, the department and Ofgem to begin to look at this option.

Lord Teverson (LD): My Lords, I will speak first to my Amendment 157. Since I put it down when the Bill first started, a lot of water has gone under the bridge—or perhaps electrons down the copper pipe. We have had the Energy Prices Act since then, and I suspect the Minister will say that all this area is already being dealt with, but perhaps I can go into a number of things.

The noble Lord, Lord Whitty, explained the social tariff very well, so I will not go through that again except to say that the last time I raised this issue with the Minister, he was quite acerbic in his reply. It is an important area, and I very much look forward to hearing the Minister's reply again. It is a long-term solution, which is the important part of that proposal as opposed to anything else.

I have listed heating oil in my amendment. I declare an interest in that my property is partly heated by heating oil, being off the grid. I would be interested to understand where we are currently, under the Energy Prices Act, on help to those with heating oil. While I have always recognised that distribution is not an easy issue, it is important because, not least in Northern Ireland but also in the rest of the United Kingdom, a number of rural areas are off the grid.

The other area I have mentioned is the nuclear financing Act that we passed on 31 March this year. I suspect the Minister will not agree to my amendment to repeal that Act—strangely, I get that feeling—but my serious point is that it introduced the regulated asset base solution to financing nuclear. Clearly, one of the main effects of that is that consumers pay up front for the development of nuclear power. This is not a speech against nuclear but a plea to rethink that at a time of maximum energy prices.

Given that Sizewell C is moving ahead and given the various commitments that the Government have made on helping with its financing, I would be interested to understand from the Minister whether that charging mechanism on consumer bills is about to go ahead or has already happened, and to learn where it is going. It is our opinion—and mine, in particular—that that basis of charging is utterly inappropriate at the present time.

6.15 pm

My other amendment in the group, Amendment 158, is about how energy costs differ according to where one is based geographically; it is almost like a postcode lottery, but obviously with much larger regions. It seems very discriminatory that there are different regional pricing regimes for energy because of the different DNOs and other circumstances. I am interested to hear the Minister's response to the proposal to take away that discrimination and ensure that there is equity across Great Britain for those energy charges.

Lord Callanan (Con): I start by discussing Amendments 157 and 159, which aim to protect vulnerable consumers, tabled by the noble Lords, Lord Teverson and Lord Whitty. The latter would expect me to remind the Committee that the Government have taken decisive action to support households to stay warm through, for instance, the energy price guarantee—as an aside, it is a pity that we have not taken decisive action to get the Room to stay warm at the moment, although that would not be up to the Government but to Parliament. This support is on top of the £37 billion cost of living support package announced in May, which provides targeted support for 8 million vulnerable and low-income households on means-tested benefits. Further support was announced in the Autumn Statement for next year, including £900 to households on means-tested benefits, £300 to pensioner households and £150 to individuals on disability benefits.

On the extension of the price cap to heating oil—which is dear to the heart of the noble Lord, Lord Teverson—the Government believe that, as the structure of the heating

[Lord Callanan]
oil market is different, imposing a price cap below wholesale costs would simply drive many companies out of the market, thereby reducing competition, which could result in supply shortages.

The noble Lord also asked about support for those on heating oil. The alternative fuel payment scheme will provide a one-off payment to UK households that use alternative fuels for heating, such as heating oil or LPG, instead of mains gas. That £200 payment will ensure that all households that do not benefit from the energy price guarantee to heat their homes will receive equivalent levels of support for the cost of the fuel that they use.

Lord Teverson (LD): I apologise, but I must come back to the Minister: where we are on the delivery of that scheme? As I understand it, it will go through local authorities. Is the cheque in the post?

Lord Callanan (Con): There will be an application process. If the noble Lord has some patience, he might receive news on that in fairly short order.

On the proposal for extending the warm home discount, the Government have extended the scheme until 2026 and expanded it to £475 million a year in 2020 prices. The amendment also seeks to increase the winter fuel payment; the Government have already announced that the pensioner cost of living payment of £300 per household will be paid alongside the winter fuel payment.

Amendments 157 and 159 also refer to the introduction of a social tariff for vulnerable consumers. The warm home discount was introduced to replace various ad hoc forms of social tariff that we used to have. The energy price guarantee has been extended to April 2024 and, as we look beyond that, we will need to develop a new approach to consumer protection. That is why, as noble Lords will recall, in the Autumn Statement, we set out plans to work with consumer groups and industry to explore options, including social tariffs, as part of our wider retail market reforms. While I welcome the intention of these proposals, I hope that noble Lords will recognise that the Government are taking substantial measures in this area.

The noble Lord, Lord Teverson, will not be at all surprised by my reaction to Amendment 236. The Nuclear Energy (Financing) Act 2022 is mentioned in Amendment 157, and the noble Lord's Amendment 236 seeks to repeal it. I wonder why we spent many days debating the nuclear Act only for it to be repealed with a stroke of the noble Lord's pen. The Government will not accept his amendment as we believe that the Act is a key part of delivering new nuclear projects.

I know that the Liberal Democrats and the noble Lord have strong views on that legislation but, as he will remember, the Act passed unamended with the support of the Opposition. The regulated asset base funding model allows a company's investors to share some of a project's risks with consumers, which can lower the cost of finance for funding new nuclear power plants in the longer term. Given the role the Act has in meeting our nuclear ambition and the importance of new nuclear power in a secure, low-cost energy system, we will not accept the noble Lord's amendment.

Lord Teverson (LD): To clarify, I said that I did not expect the Minister to accept my amendment, but I did ask a serious question: when will the RAB model be applied? When will it start to go on energy bills? Is it still the Government's intention that it should go on energy bills—and in the near future, given that the Government are moving ahead with their plans for Sizewell C?

Lord Callanan (Con): The future funding of Sizewell C will be set out at the time, but it is certainly our intention to implement the provisions in the Act.

The noble Lord, Lord Teverson, also tabled Amendment 158 on network charges. Network charges have regional differences because there is a variation in the costs of transporting energy in different areas. Ofgem previously undertook a fairly comprehensive review of this area and concluded at the time that there was no compelling case to change the approach to national charges. It found that changing the model would mean that approximately 16 million households would face higher bills, and 11 million would see reduced bills. Action is taken where there are markedly higher network costs for consumers. For example, the Government's hydro benefit replacement scheme provides annual assistance of more than £90 million to protect consumers in the north of Scotland from the high costs of distributing electricity. With those reassurances, I hope the noble Lord will not press his amendments.

The noble Lord, Lord Kennedy, is not with us, but I will say a word about his Amendment 156A. The Energy Prices Act has ensured support for households and businesses across the country. For households that fall outside the scope of the energy price guarantee, the costs of commercial energy contracts are also being capped by the Energy Bill Relief Scheme. In the longer term, the Government aim to ensure that consumers always pay a fair price for their energy, and that will be considered as part of the forthcoming energy retail strategy.

Finally, I turn to the amendments tabled in my name. I oppose that Clause 161 should stand part of the Bill. As noble Lords will be aware, this is because Clause 161 has been superseded by provisions in the Energy Prices Act 2022. I am grateful to the House for supporting it to be enacted extremely quickly. It enabled the extension of the price cap beyond 2023 and allowed it to be retained to help deliver the energy price guarantee. The longstop has been removed and more flexible arrangements have been introduced for ending the cap to ensure that regulation can keep pace with changing conditions in the energy market. The clause is therefore no longer relevant and, in my humble view, should not stand part of the Bill. Consequently, I have also tabled Amendment 245A to remove the commencement provisions for Clause 161.

Lord Whitty (Lab): Can I clarify the Minister's remarks on the social tariff? He recognises that the price support scheme is essentially temporary, welcome though it is, and the warm home discount is a fairly crude measure in that it does not relate to the particular structure of bills of individual vulnerable consumers. Does he not like the term "social tariff"? Does he recognise

that, when this emergency period is over, it would be sensible to look again at the whole structure of support for vulnerable consumers on a more permanent basis, so that it can address their individual and collective requirements? Some of them have quite high unit cost bills, which are not directly affected by the warm home discount. Is he rejecting a review of the situation entirely or just objecting to giving it a title that he does not particularly like?

Lord Callanan (Con): I forget who said that you can reverse the meaning of anything by putting the word "social" in front of it: social democracy, social work and various other things—I do not mean that seriously, of course. I have nothing against the title "social tariff"; my argument is merely that the warm home discount was introduced to replace the original ad hoc social tariff arrangements because it was deemed to be a better system that does essentially the same thing. The whole principle of a social tariff is to provide a discount for certain vulnerable consumers. That is also what the warm home discount does, in our view more effectively. We said we would work with consumer groups and others to review the whole system. Frankly, I do not mind what it is called; it is about producing the most effective system of support that we can, always bearing in mind the costs of such a scheme.

Baroness Blake of Leeds (Lab): I thank the Minister for his comments on Amendment 156A. I will relay them to my noble friend Lord Kennedy and look forward to future developments, as he outlined. I also thank my noble friend Lord Whitty and the noble Lord, Lord Teverson, for their amendments and discussion on the very important issues around social tariffs. As has been highlighted, I am convinced that we will come back to discuss these long-term issues, although we recognise the support that has been given to vulnerable users in recent months.

We do not support Amendment 236 in the name of the noble Lord, Lord Teverson. However, we think there is merit in the Government paying closer attention to customer involvement in the regulated asset base. If things go ahead as envisaged, the customer will be involved in funding nuclear plants. As has been outlined, it is crucial that customers have a closer role in monitoring how that money is raised and spent. With that, I beg leave to withdraw my amendment.

Amendment 156A withdrawn.

Clause 161 disagreed.

Amendments 157 to 159 not moved.

Clause 162 agreed.

Clause 163: Payment as alternative to complying with certain energy company obligations

Amendment 160 not moved.

Clause 163 agreed.

6.30 pm

Clause 164: Smart meters: extension of time for exercise of powers

Amendment 160A

Moved by ***Lord Lennie***

160A: Clause 164, page 139, line 14, at end insert—

"(5) Within six months from the date of the provisions of this section coming into force, the Secretary of State must produce and lay before Parliament a report setting out options for securing a guaranteed roll out of smart meters to at least 70% of coverage in all regions and nations of the UK by 2025.

(6) The report must consider among other options—

(a) mandation of smart meter installation;

(b) transfer of responsibility for smart meter roll out to Distribution Network Operators; and

(c) date limited phase out of non-smart meters."

Member's explanatory statement

The Bill extends the time frame (for the third time) by which the smart meter roll out can be completed. This amendment suggests that the Government report should be aiming for at least 70% coverage in all regions and nations of the UK by 2025 and proposes policy options to meet the target.

Lord Lennie (Lab): My Lords, we come to smart meters—again. I think the smart meter rollout started when the noble Lord, Lord Henley, was BEIS Minister, in 2016 or thereabouts, and it was extended in 2018 and 2020. We are all on the same page with smart meters—we want them installed throughout the country, we want them to be smart and we want them to work—but we have not got there yet. This Bill extends the timeframe by which smart meters will be rolled out. This amendment suggests that the Government should aim for at least 70% coverage in all regions and nations by 2025.

The official national smart meter rollout began in 2016, as I said, and was meant to finish in 2020, after an extension in 2018. Installations were paused at the start of the coronavirus pandemic and suppliers have been given additional time to install smart meters. Energy firms had until December 2021 to take "all reasonable steps" to install smart meters in homes and small businesses. They now have until the end of 2025 to install them in all remaining homes and businesses, with annual installation targets that they have to meet.

Until 2019, the majority of smart meters installed were what were known as first-generation, or SMETS 1, meters. They had a series of technical problems, particularly that they are prone to losing their smart capabilities if you switch energy provider. The information is no longer relayed and therefore the advantages of planning on the part of the suppliers and savings on the part of the customer are lost. Energy companies were encouraged to stop installing these by March 2019 and start installing second-generation, or SMETS 2, smart meters. So far, more than 11 million second-generation smart meters have been fitted.

The biggest year yet for the national rollout was 2021. By September 2021, 26.4 million smart and advanced meters had been installed, representing 47% of coverage. Installations were up 21% on the previous year.

[Lord Lennie]

In September 2022, the UK surpassed 19 million smart meter installations since 2012. ElectraLink data shows that nearly 209,000 smart meters were installed in September 2022, 6% more than in September 2021. Analysts estimate that there have been 1.7 million installations in the first nine months of this year, slightly below the target of 1.8 million installations in the first nine months of last year. However, in October 2022, the *Telegraph* reported that energy companies are set to miss their targets for installing smart meters this year amid reports of supply chain and staffing issues.

The smart meter factsheet for the Bill states that:

"Under section 88 of the Energy Act 2008, and associated sections of the Electricity and Gas Acts, the Secretary of State has powers to modify energy licence conditions and industry codes for the purposes of the rollout of smart meters. These powers are currently due to expire on 1 November 2023. This measure provides for these powers to continue … until 1 November 2028"

—a further five years. On when the rollout will finish, it says that:

"The Government wants as many households and small businesses across Great Britain as possible to benefit from smart metering"—

as do we all. It continues:

"Therefore, minimum annual installation targets for energy suppliers were introduced at the beginning of 2022 to drive rollout momentum. This Targets Framework will be in place until the end of 2025, with installation targets for the final two years of the policy to be set during 2023."

I agree that the extension is necessary. As the factsheet says,

"This measure will ensure that Government can continue to drive the rollout of smart meters across Great Britain by enabling us to effectively deliver the current Targets Framework and ensure we maximise the long-term benefits of a market-wide smart metering system following a post-implementation review of the rollout after 2025."

I beg to move.

Lord Teverson (LD): My Lords, I declare an interest in that every month I have to disappear under the stairs in my house with a camera with a flash on it to take a photograph of my ancient meter and then walk back to my laptop and submit my meter reading. In the other property, where I have some control over the electricity, I have a smart meter but it has gone dumb, so I still have to go over there, open the cupboard, take a photograph of it and send the information back to the other electricity supplier, because it is a SMETS 1 meter that went dumb when the energy supplier was changed. In my own house I have asked three times for the meter to be replaced but I have not been able to get that to happen.

I remember during the passage of one of the other Energy Acts having an agreement with the noble Lord, Lord Grantchester, who I greatly like—ah, excellent, he is coming in behind me. When the Government moved the date to 2023, we said to them, "You've got no chance of completing this programme by 2023 as you want; why don't you save yourself the problem—we all admit that this is a difficulty—and extend it?". The Government still insisted on 2023 being the date by which this rollout would be completed. In the Bill there is a total admission of the failure of that rollout, because it has to go back to 2028. As the noble Lord, Lord Lennie, stated, this rollout started in 2011. We had a 2020 target at that time and we have got nowhere near it.

Another statistic comes out to me—the noble Lord, Lord Lennie, got hold of the September quarterly figures; I am afraid that I only got to June, so my apologies for that. There was celebration that smart meters had now got to more than half of the premises they were meant to—only half, so half of the premises do not have them. Of those installations, 29.5 million were in homes and SMEs but only 26 million of those were operating smart meters, so that brought it down to 45%. Certainly, when I looked at the installation rates over the last period, never mind the problem with lockdown and the whole Covid issue, I saw that there has been a decline, quarter on quarter, in the monthly installations taking place, so this has clearly not worked.

We have a smart meter rollout but a dumb rollout system. Something that is clearly a problem here is that the system for doing this is so complex that it can hardly work. That is why I welcomed a reflection in the amendment from the noble Lord, Lord Lennie, and in my amendment, that the obvious way to make this work is to give it to the DNOs and to work with local authorities on a street-by-street basis or in village clusters to get this thing done. It is clear that we need a smart meter system to move down to smart appliances where we can have a much quicker and better decarbonised electricity system—probably for gas as well, but it is the electricity system that benefits from that.

We have a complete failure of this system. We also have communication problems in the northern region—they are very off and on as to whether they work properly. This system is not good. I beg the Government to be courageous, cut out the system as it is at the moment, get the DNOs to do it in conjunction with local authorities, and you will get a result: it will happen.

I believe my Amendment 161A on prepayment meters is important. The Minister will know, but something like 10% of all meters are prepayment meters. One of the problems with those is that at the moment, with the energy crisis we have, people can just self-disconnect. If they do not have the money or have to spend their money elsewhere, they just do not fill up the meter. No one really knows about that—they are just not used. One of the things we are asking for here is priority for the rollout of prepayment meters; the dumb ones should be replaced by smart meters before the end of 2025. Then you can start to tackle the self-disconnect problem—it is controllable and beyond the consumer.

My Amendment 161AZA would also give the Secretary of State the opportunity to stop self-disconnection through prepayment meters. I am not quite sure how that would work, but I feel that this is a real crisis area that we should all be concerned about and try to find ways to address. It is clear that it is the most vulnerable citizens who are on prepayment meters. Smart meters are one way of solving disconnection, so that is something we should concentrate on. We can also use technology such as apps, rather than cash and other means. I will be interested to hear the Minister's views on how we tackle prepayment at the moment. I know he has talked about various schemes that we have had before, but I look forward to his response on that.

The real challenge on smart meters is getting rid of the dumb system that does not work at the moment. Let us get a change, decide to do it a different way and roll these things out effectively.

Lord Whitty (Lab): The noble Lord, Lord Teverson, has spelled out exactly a problem with the meters. An additional problem is the disillusionment of the consumer. We started with great expectations that the SMETS 1 meters would work; they did not. The rollout has been wrong, the information to the consumer has not helped and the word on the street—or off the street—is that, basically, smart meters do not work. Only a very small minority of people are using them properly, even the latest ones, so any new scheme or intensified rollout needs to be accompanied by a very clear informational and educational process. Maybe the DNOs have to do it. One way or another, we cannot rely on individuals overcoming their suspicion of the system and wholeheartedly endorsing a system we were relying on to solve a lot of the problems of energy efficiency and escalating energy prices in the domestic sector. It will require not only the physical installation of the systems but a mindset change on behalf of consumers.

Lord Callanan (Con): I thank noble Lords for their contributions. In a second I will say more about the details of smart meters, which come under my ministerial portfolio, but I will start with Amendment 161 from the noble Lord, Lord Teverson. The option of a DNO-led rollout was extensively consulted upon at the start of the programme. It was discarded as an inappropriate model for a rollout that has always prioritised consumer benefits. If the noble Lord did my job and received some of the letters and complaints about DNOs that I do, I suspect he might have slightly less faith in their ability to roll out the smart meter system.

The Government have also learned from the international smart meter programmes where network-led rollouts have not delivered the benefits envisaged. Research shows the importance of consumer engagement to maximise take-up and enable households and small businesses to save energy. Frankly, it does not make sense for organisations with almost no consumer interaction to lead the rollout.

6.45 pm

A street-by-street approach by network operators is not as practicable as it would seem, as it would obviously require a whole road of people being at home at the same time—and indeed consenting to have them fitted. Changing the delivery model for the rollout in such a fundamental way, at what is now a fairly advanced stage of the programme, would risk delaying the programme and reducing consumer benefits. I will come back to more on smart meters later.

I turn now to Amendment 161A, also in the name of the noble Lord, Lord Teverson, and the replacement of legacy prepayment meters. The Government agree with the noble Lord's assessment that smart meters offer a better service than legacy prepayment meters. The smart prepayment rollout is making good progress; the most recent figures showed that 13% of all smart meters were in prepayment mode, which is broadly in line with the overall levels of prepayment meters in the market.

A mandatory approach to installations would present considerable practical barriers. We have to look at this logically: some people have principled objections—perhaps bizarrely, but they do. For those who refuse, we would in effect be saying that energy suppliers would need to obtain forced powers of entry, to break into someone's home against their will and compulsorily install a smart meter. That would add severe civil liberties implications; I much prefer a carrot approach, rather than a stick approach. It would also reduce installation capacity, be costly and, of course, be extremely intrusive for consumers.

The Government continue to closely monitor smart prepayment delivery. The existing smart metering powers, for which we are seeking an extension in this Bill, enable the Government to take further action to support the prepayment rollout, if needed.

The noble Lord also proposes that we plan to end prepayment meter self-disconnection. As I said on an earlier group of amendments, the Government have provided £37 billion in cost of living support this year. Support is easier to access for those with a smart prepayment meter. It has in fact been quite problematical to roll out to those who do not have a smart meter; they have to apply for vouchers, have them delivered and go to their local shop and so on—take-up is lower than it is for the main scheme. The £400 Energy Bills Support Scheme discount is applied automatically for those on smart prepayment meters, as it is for those on normal credit meters. There is also no need to obtain or redeem a voucher.

I can also tell the Committee that there are strict rules in place to protect energy consumers, particularly vulnerable consumers. This means ensuring that prepayment meters are accessible and considering whether a consumer's vulnerability makes a prepayment meter a poor choice.

Ofgem rules protect prepayment customers from disconnection. Energy suppliers are obliged to make emergency credit available where that is technically feasible, or otherwise provide alternative, short-term support, and to take all reasonable steps to proactively identify prepayment meter customers who are self-disconnecting and provide the appropriate support. The Government welcome the steps that Ofgem is taking to ensure that energy suppliers comply with their obligations, including through its market compliance review into customers who are struggling with their bills.

Turning to Amendment 161AZA in the name of the noble Lord, Lord Teverson, on restrictions around the installation of prepayment meters, the Government recognise the importance of protecting consumers, particularly those having payment difficulty and in debt. There are, however, already robust protections in place, as well as significant financial support for all consumers. It should not be forgotten that many households prefer to pay for their energy by prepayment meter as this allows them to control and budget for the amount they spend and mitigate the risk of going into or exacerbating existing debt. Ofgem rules already require energy suppliers to offer a prepayment service only where it is safe and reasonably practicable to do so, and these apply whether a meter is smart or traditional.

There are clear requirements for suppliers on the steps to take before installing a prepayment meter for debt or switching a smart meter from credit to prepayment mode.

[Lord Callanan]
These steps include conversations to discuss debt repayment, budget management and energy efficiency measures or referrals to debt advisers and charities. Before a prepayment meter is chosen as the debt repayment pathway, they must establish whether this is safe, and the customer's ability to pay has to be assessed. Suppliers have to give their customers seven days' notice before installing a prepayment meter or switching a smart meter to prepayment mode, and they must have already allowed a customer 28 days to repay their debts. Ofgem recently published a letter in which it set out its expectation that suppliers should ensure prepayment meters are safe and reasonably practicable in every case, and should act quickly to change the meter to non-prepayment where necessary.

Let me highlight some of the circumstances in which it is not deemed safe to have a prepayment meter. They include having specific disabilities or illnesses, or having children under the age of five. It is important that the rules that are in place are strictly enforced. Following its market compliance reviews in recent months, the Secretary of State has additionally asked Ofgem to do more to ensure that suppliers are complying with the rules that are in place and that they are fulfilling their licensing conditions.

Amendment 160A, in the name of the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, is concerned with the coverage of smart meters. Let me reassure noble Lords that the Government want as many houses and small businesses to benefit from smart metering as possible. We have taken measures to normalise smart metering as the default meter offer across Great Britain. Under the smart meter targets framework, energy suppliers are set minimum annual installation targets to drive rollout momentum.

Regarding the options that noble Lords have set out, I have explained that a transfer of responsibility for the rollout to distribution network operators would risk slowing down progress considerably. I said earlier that mandating smart meter installation, or a date-limited phase-out of non-smart meters, would prove problematic. The noble Lord, Lord Teverson, is unfortunate if he is one of the few remaining customers who has a SMETS 1 meter that has not yet converted to a SMETS 2 meter, or, rather, a meter that has regained its smart capability. He is right that a number of SMETS 1 meters were installed initially that went back into dumb mode when supply was changed. I have been in correspondence with the data communications company about that, urging it to improve the conversion, which is done remotely by software update.

Lord Teverson (LD): If I may, I will just point out to the Minister that I may be one of the few, but I am actually one of 4 million.

Lord Callanan (Con): I will confirm the exact figures for the noble Lord. The latest numbers I have were considerably less than that. I do not have the figures in front of me, but I will certainly check that.

I have met the chief executive of the data communications company to discuss this a number of times over the last year, and the vast majority of SMETS 1 meters have now been remotely updated. I was told that conversions by software updates for the few that remain have been attempted on half a dozen different occasions. Presumably in such circumstances the only option for the suppliers, if they cannot be remotely updated, will be to switch them to SMETS 2 format. The vast majority have been updated, but I will get the latest figures for the noble Lord. If I am wrong on my figures, I apologise, but my impressions certainly from the discussions with the DCC is that the vast majority have been remotely updated by software updates and should therefore be able to operate in smart mode.

There are, of course, a number of other problems in the rollout; for instance, blocks of flats where the meter is a considerable distance away from the property. Different technological solutions are being developed for those and are in the process of being rolled out. There was a particular difficulty at Fylingdales, in Yorkshire, where there was interference in the signal, but again technological solutions have now been rolled out for them.

Finally, I will tell noble Lords the story of my noble friend Lady Bloomfield's hairdresser, who attended her to coiffure her excellent hairstyle and remarked on how great her in-home display was in enabling her to monitor her energy usage in real time, saying, "I need to get one of those". When my noble friend said that it was a smart meter, the hairdresser replied, "I don't want a smart meter—I want the display". So we still need to provide a lot of education for consumers.

I know that noble Lords will have seen the PR and advertising campaign being rolled out at the moment by a smart energy company to try to drive rollout. I remain of the view that it is much better to incentivise consumers to voluntary adopt them rather than to mandate their installation. Indeed, in the last year or so, my own postbag from MPs has switched from a number of people writing to say that they do not want a smart meter and questioning why the companies keep writing to them to ask if they want one, to a number saying that they now want one but cannot have one because they live in the 0.5% of the country which is not reached by either the mobile signal or the Arqiva long-range radio signal. So I think that public attitudes are switching, and many more people are now willing to take smart meters. As the noble Lord, Lord Teverson, said, we are now at about 50% adoption. We need to keep pressing to persuade other consumers to take them and to roll out the solutions to the more difficult and hard-to-reach areas—and that will continue.

The decision to take a voluntary approach is right; it was informed by consumer research which found that making installations mandatory was counterproductive. It acts against the British spirit, if I may put it like that: people do not like being instructed to do something; they would much rather voluntarily decide that it is a good thing for themselves. To have mandatory installations risks causing considerable consumer animosity and reducing levels of engagement. Consumer demand for smart meters remains strong, and we do not believe that making them mandatory is necessary.

The Government have confirmed that a mid-point review of the targets framework will take place in 2023. That will assess the latest available evidence on the

progress of the rollout and consider how the framework can best drive the highest levels of smart coverage by the end of 2025. There will be a consultation and a government response on the review, which will serve the purpose of the report requested by many noble Lords.

Therefore, I hope that, with the account of my noble friend Lady Bloomfield's hairdresser and the other reassurances I have been able to provide, noble Lords will feel able to withdraw their amendments.

Lord Teverson (LD): I just want to make the point that we are coming up to three years after the programme was supposed to have finished. Where are we now? On the smart meters that work, in June—I do not have the figures for after that month—we were 45% through a programme which we should have completed two and half years ago. It is a failure.

I have been a strong advocate of smart meters. Perhaps the Minister's research is different from mine but in continental Europe, according to my understanding of the research I have done, the model for rollout that has been successful is through the equivalent of DNOs. However much you defend it—I am sure that the Minister wants the programme to be as successful as I do—it is a failure, so it needs changing. I do not know whether he has seen the organogram of all the organisations involved in rolling out smart meters, but it is one of the most complicated that I have seen. It is too complicated and clearly does not work. I finish with those words, but I feel strongly that, while smart meters are really important for the delivery of a modern, dispersed and clean energy system, we are just not getting there.

Lord Callanan (Con): I do not agree with the noble Lord. Obviously, during the pandemic, rollout ceased because people did not want people in their properties, so it was impossible to do it and the target was missed during those periods.

Clearly, we both have the same objective: we want to drive rollouts as quickly as possible. I remain of the view that the existing framework is appropriate. Rollout is proceeding; many thousands are being installed every week. Of course, we would always like to see faster progress, and one reason for taking the additional powers is to drive faster rollouts.

7 pm

The performance of some suppliers is better than others. Maybe at some stage it would be good to have league tables of suppliers to judge them against each other. Some are excellent at promoting them, and some, because of their business models, are not so good, so perhaps a bit of public naming and shaming would be the appropriate way to go forward on this.

We all share the same objective, and I am certainly willing to consider any good suggestions for how we can drive the rollout further, short of mandating their installation, which would be a retrograde step.

Lord Lennie (Lab): My Lords, did the Minister's hairdresser end up with a smart meter, or not?

Baroness Bloomfield of Hinton Waldrist (Con): Not yet. It was only last week.

Lord Lennie (Lab): Okay. The issue is that if we carry on doing the same thing over and over again, we will get the same result. We will not get to the end of the smart meter rollout until the end of this century. It seems crazy that the Minister cannot accept that the rollout has been a failure overall. We all want this to succeed.

I remember our discussion right at the beginning about whether we should incentivise customers to take smart meters because they would be fearful of this thing coming into their houses and would not know what was going to happen with it. The response was, "Oh no, everyone will want one of these things, they're marvellous. You'll see how much energy you use and how much it's costing you, we'll get half-hour rollouts of energy supply issues, it'll be a just in time system and perfect for the new world." That is not happening.

We have to get to at least 70% rollout by the end of the extended period allowed by the Bill. Otherwise, we will end up with insufficient data on which to make the judgments that need to be made. On that basis, I beg leave to withdraw my amendment.

Amendment 160A withdrawn.

Amendment 161 not moved.

Clause 164 agreed.

Amendments 161A and 161AZA not moved.

Committee adjourned at 7.03 pm.