

Nuclear Energy (Financing) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD WIGLEY

- 1 Page 1, line 7, at end insert –
“(2A) “Nuclear energy generation” includes the generation of energy by either nuclear fission or nuclear fusion.”

Member’s explanatory statement

This subsection is to clarify that the provisions of the Bill may extend to nuclear fusion electricity generation if that process becomes viable.

LORD MCNICOL OF WEST KILBRIDE

LORD OATES

- 2 Page 1, line 15, at end insert –
“(6) “Owned by a foreign power” means owned by a company controlled by a foreign state and operating for investment purposes.”

Member’s explanatory statement

This amendment provides a definition of foreign ownership and is linked to a further amendment to Clause 2 in the name of Lord McNicol of West Kilbride.

Clause 2

LORD OATES

LORD TEVERSON

- 3 Page 2, line 8, at end insert “and
(b) a geological disposal facility for the disposal of high-level nuclear waste has been constructed in the United Kingdom and is operational, such that the full life costs of construction and decommissioning of a nuclear energy generation project can be accurately quantified prior to designation.”

Member's explanatory statement

This amendment would prevent the Secretary of State from designating a company under the Act until such time as a geological disposal facility for the disposal of high-level nuclear waste has been constructed in the United Kingdom and is operational.

LORD FOSTER OF BATH
LORD TEVERSON

- 4 Page 2, line 14, leave out from “project” to end and insert “will result in value for money, as evidenced by the publication of the Value for Money assessments conducted to date.”

Member's explanatory statement

This amendment would require the Secretary of State to provide stronger evidence that the project will result in value for money through publication of such assessments carried out to date.

LORD OATES
LORD TEVERSON
BARONESS BENNETT OF MANOR CASTLE

- 5★ Page 2, line 14, at end insert “and has laid a report before Parliament setting out the reasons for that opinion, including –
- (i) an estimate of the electricity price payable to the company over the period during which the nuclear energy generation project is generating electricity, and the modelling, assumptions and all relevant material underlying such an estimate;
 - (ii) an estimate of the regulated asset base charge payable by consumers in each year until the nuclear project is generating electricity, including the modelling, assumptions and all relevant material underlying such an estimate;
 - (iii) an estimate of the costs of decommissioning the project, how such costs will be met, and the modelling, assumptions and all relevant material underlying such an estimate.”

Member's explanatory statement

This amendment would require the Secretary of State to publish a report setting out the reasons for their opinion that designating the nuclear company is likely to result in value for money.

LORD OATES
LORD TEVERSON

- 6 Page 2, line 14, at end insert –
- “(c) the Secretary of State is of the opinion that the United Kingdom’s generation capacity will include sufficient backup capability should the nuclear energy generation project suffer significant outages or be unable to generate electricity entirely, and has laid before Parliament a report setting out the reasons for that opinion.”

Member's explanatory statement

This amendment would establish an additional designation criterion requiring the Secretary of State to be of the opinion that the United Kingdom's generation capacity will include sufficient backup capability should the nuclear energy generation project suffer significant outages or be unable to generate electricity entirely.

BARONESS BENNETT OF MANOR CASTLE

7 Page 2, line 14, at end insert –

- “(c) the nuclear company is one or more of the following –
- (i) a not-for-profit entity;
 - (ii) a cooperative;
 - (iii) a community interest company;
 - (iv) wholly owned by one or more public authorities in the United Kingdom.”

Member's explanatory statement

This would require nuclear companies to be either not-for-profit, a cooperative, a Community Interest Company, or wholly owned by UK public authorities in order to qualify for the financing scheme established in the Bill.

8 Page 2, line 14, at end insert –

- “(c) the nuclear company is a company registered in England and Wales or in Scotland.”

Member's explanatory statement

This would require nuclear companies to be registered in the United Kingdom, and therefore fully subject to UK company law and taxation, in order to qualify for the financing scheme established in the Bill.

LORD MCNICOL OF WEST KILBRIDE
LORD OATES

9 Page 2, line 14, at end insert –

- “(c) the nuclear company is not owned, wholly or in part, by a foreign power, and
- (d) the fuel rods for the company's reactor are supplied by a company based in the United Kingdom.”

Member's explanatory statement

This amendment prevents the Secretary of State from designating a nuclear company owned or part-owned by the agents of a foreign power and ensures that the fuelling of the designated company's reactor is provided by a UK based company.

LORD MCNICOL OF WEST KILBRIDE

10 Page 2, line 14, at end insert –

- “(c) the Secretary of State is of the opinion that –
- (i) the nuclear company is able to complete the project, or
 - (ii) arrangements are in place should the nuclear company be unable to complete the project.”

Member's explanatory statement

This amendment would prevent the Secretary of State designating a company to undertake a nuclear energy generation project unless they are of the opinion that the company will be able to complete the project, or suitable contingency plans are in place.

LORD VAUX OF HARROWDEN

11 Page 2, line 14, insert –

“(c) the Secretary of State is satisfied that the identity of any party which directly or indirectly owns or controls more than 10% of the nuclear company has been verified.”

Member's explanatory statement

This amendment would ensure that the ultimate ownership or control of any nuclear company must be identified and verified before they can be designated.

LORD FOSTER OF BATH

LORD TEVERSON

BARONESS BENNETT OF MANOR CASTLE

12 Page 2, line 15, at end insert –

“(5) In this section “sufficiently advanced” has the meaning given to it by guidance published by the Department for Business, Energy and Industrial Strategy.”

Member's explanatory statement

This amendment would require BEIS to define “sufficiently advanced” in guidance.

Clause 3

LORD OATES

BARONESS BENNETT OF MANOR CASTLE

13 Page 2, line 26, at end insert –

“(c) publish an independent assessment of the impact on consumer energy bills.”

Member's explanatory statement

This amendment would require the Secretary of State to publish an independent assessment of the impact on consumer bills of the RAB before designating a nuclear company under section 2(1).

LORD FOSTER OF BATH

14 Page 2, line 36, at end insert –

“(fa) the relevant upper tier local authority covering the site for the nuclear project;”

Member's explanatory statement

This amendment would require the Secretary of State to consult the relevant upper tier local authority before designating a nuclear company under section 2(1).

BARONESS BENNETT OF MANOR CASTLE

- 15★ Page 2, line 36, at end insert –
“(fa) persons living or regularly working within a 50 mile radius of the proposed site;”

LORD MCNICOL OF WEST KILBRIDE

- 16 Page 3, line 2, at end insert “, including –
(i) the anticipated electricity generation of the nuclear project, and
(ii) whether the project is likely to generate other outputs, including hydrogen, as by-products,”

LORD WIGLEY

- 17 Page 3, line 7, at end insert –
“(ca) details of conditions imposed by the Secretary of State under subsection (6)(c), and”

LORD FOSTER OF BATH
LORD OATES

- 18 Page 3, line 8, at end insert –
“(e) detail of any public funding agreed as part of the project development and the services being provided for this funding.”

Member’s explanatory statement

This amendment aims to provide additional transparency about taxpayers’ money allocated to a project before a Final Investment Decision has been taken.

LORD MCNICOL OF WEST KILBRIDE

- 19 Page 3, line 8, at end insert –
“(5A) Where conditions are imposed under subsection (5)(c), these may include duties on the nuclear company to –
(a) promote equality, diversity and inclusion principles during the lifetime of the nuclear project;
(b) pursue good industrial relations during the lifetime of the nuclear project;
(c) publish details of contracts entered into by the designated nuclear company, where these contracts relate to the construction and operation of the nuclear project;
(d) collect data relating to the quantity and value of domestically produced goods and fuel utilised during the construction and operation of the nuclear project, and to publish such data annually.”

Member’s explanatory statement

This amendment specifies a variety of conditions which the Secretary of State may wish to impose on a nuclear company as part of the designation process. The conditions listed reflect some of the terms agreed between GMB and EDF as part of the Hinckley C project.

LORD WIGLEY

20 Page 3, line 13, at end insert –

- “(c) impose conditions providing for –
- (i) the designation of responsibility for decommissioning of the project,
 - (ii) the extent of the nuclear company's liability for decommissioning and rendering the site safe, and
 - (iii) a specific undertaking that beyond any liability limits in money or time limitation all residual costs of decommissioning are paid out of money provided by Parliament.”

Member's explanatory statement

This amendment aims to ensure that responsibility for meeting the cost of decommissioning are transparent.

Clause 4

LORD FOSTER OF BATH

21 Page 4, line 5, at end insert –

- “(fa) the relevant upper tier local authority covering the site for the nuclear project,”

Member's explanatory statement

This amendment would require the Secretary of State to consult the relevant upper tier local authority under this section.

Clause 5

LORD VAUX OF HARROWDEN

22 Page 4, line 16, leave out “either” and insert “any”

Member's explanatory statement

This amendment is linked to an amendment to Clause 2 in the name of Lord Vaux. It would ensure that the Secretary of State may revoke a designation if the Secretary of State is no longer satisfied that the ownership of the designated nuclear company has been verified.

BARONESS BENNETT OF MANOR CASTLE

23★ Page 4, line 34, at end insert –

- “(6) Where a designated nuclear company is sold to a company that fails to meet the financial or other requirements required for the original designation, the Secretary of State must revoke the company's designation.”

After Clause 5

LORD VAUX OF HARROWDEN

24★ Insert the following new Clause –

“Changes in ownership of designated nuclear companies to be identified

- (1) A designated nuclear company must notify the Secretary of State about the identity of any party which gains direct or indirect ownership or control of more than 10% of the company within the period of one month beginning with the day on which that party gains such ownership or control.
- (2) If a nuclear company fails to notify the Secretary of State in accordance with subsection (1), the Secretary of State may permanently or temporarily revoke the nuclear company’s designation.
- (3) The Secretary of State may permanently or temporarily revoke the nuclear company’s designation if the Secretary of State is of the opinion that a party identified under subsection (1) is not a fit or proper person or company to own or control a nuclear company.”

Member’s explanatory statement

This amendment is linked to amendments to Clauses 2 and 5 in the name of Lord Vaux. It aims to ensure that any changes in ownership of a designated nuclear company are notified in a timely manner and gives the Secretary of State the power to terminate a designation if that does not happen or if the Secretary of State is of the opinion the new beneficial owner is not a suitable person to own or control a nuclear company.

Clause 6

LORD MCNICOL OF WEST KILBRIDE

25 Page 5, line 3, at end insert –

- “(2A) Prior to exercising the power under subsection (1), the Secretary of State must lay before both Houses of Parliament a statement setting out how, in the opinion of the Secretary of State, the proposed use of the power will facilitate investment in the –
- (a) design,
 - (b) construction, and
 - (c) commissioning,
- of nuclear energy generation projects.”

Member’s explanatory statement

This amendment would make the exercising of the power under subsection (1) conditional on the Secretary of State laying a statement on the proposed use of the power before both Houses of Parliament.

LORD FOSTER OF BATH

LORD OATES

26 Page 5, line 19, leave out paragraph (e)

Member’s explanatory statement

This amendment is intended to probe the meaning of “appropriate incentives” in this paragraph.

LORD FOSTER OF BATH
LORD WIGLEY

27 Page 5, line 21, at end insert—

- “(4A) The Secretary of State must lay a report before Parliament in respect of each project in relation to which a nuclear company has been designated under section 2(1) before exercising the power under section 6(1), which must include—
- (a) the expected overall capital cost of the prospective project,
 - (b) the expected up-front cost of the prospective project,
 - (c) the general terms of the project for the sale of electricity onto the grid, including—
 - (i) a statement of whether the Government has offered the nuclear company a minimum floor price mechanism for the sale of electricity onto the National Grid,
 - (ii) the minimum floor price mechanism included in any arrangement including any inflationary or baseline indices, and
 - (iii) the duration in years of any such arrangement under subparagraph (ii),
 - (d) completed value for money assessments for the project, and
 - (e) how decommissioning costs of the project will be met, including in the event of insolvency of the nuclear energy company, setting out any role for—
 - (i) revenue collection contracts, including any percentage specifically dedicated to decommissioning costs,
 - (ii) protection of decommissioning payments for time of need,
 - (iii) insurances, and
 - (iv) consumer risk.”

Member’s explanatory statement

In respect of new nuclear projects, this amendment would require the Secretary of State to lay before Parliament a report on the up-front and overall expected cost of the project, details of any agreement reached on terms for the sale of electricity onto the National Grid and how decommissioning costs will be met, including in the event of the nuclear company becoming insolvent.

After Clause 6

LORD FOSTER OF BATH
LORD OATES

28 Insert the following new Clause—

“Independent assessment of the impact on consumer bills of a project

- (1) In respect of each project in relation to which a nuclear company has been designated under section 2(1), before exercising the power under section 6(1), the Secretary of State must commission an impact assessment by an independent agency or company of the implications of the project for domestic consumer bills and publish its report.
- (2) The report under subsection (1) must be approved by the House of Commons before any agreement that would lead to licence modifications may become contractually binding.”

Member's explanatory statement

This new Clause would require an independent impact assessment to be conducted and approved by the House of Commons before licence modifications were permitted.

Clause 7

LORD MCNICOL OF WEST KILBRIDE

29 Page 7, line 8, at end insert –

“(3A) When exercising the power in subsection (1), the Secretary of State must –

- (a) not cause the excess of expenditure being incurred over the allowable revenue cap to lead to further charges upon revenue collection contracts, and
- (b) lay before both Houses of Parliament a statement setting out how the adjustment to the company's allowed revenue will be made without relying on revenue collection contracts.”

Member's explanatory statement

This amendment would require the Secretary of State, when exercising the power under subsection (1), to take steps to prevent further charges being imposed upon revenue collection contracts, and to lay a statement before both Houses of Parliament on the steps taken.

Clause 8

LORD FOULKES OF CUMNOCK

30 Page 7, line 32, at end insert “unless the Secretary of State considers it in the public interest not to consult Scottish Ministers and the Scottish Environment Protection Agency,”

LORD FOSTER OF BATH

31 Page 7, line 34, at end insert –

“(ga) the relevant upper tier local authority covering the site for the nuclear project,”

Member's explanatory statement

This amendment would require the Secretary of State to consult the relevant upper tier local authority under this section.

LORD FOSTER OF BATH

LORD OATES

32 Page 8, line 11, leave out “as soon as reasonably practicable after” and insert “before”

Member's explanatory statement

This amendment would require the Secretary of State to publish a report on licence modifications before such changes are made.

Clause 13

LORD OATES
LORD FOSTER OF BATH

33 Page 11, line 27, at end insert –

“(A1) The primary duty of the Secretary of State is to publish all material relevant to –

- (a) costs that may be incurred by the taxpayer arising from any provision of this Act,
- (b) the determination of the regulated asset base charge that may be levied on consumers under the powers in this Act, and
- (c) the cost to consumers of electricity produced by the project.”

Member’s explanatory statement

This amendment would place a primary duty on the Secretary of State to publish all material relevant to (a) costs that might be incurred by the taxpayer arising from any provision of the Act; (b) the determination of the regulated asset base charge that may be levied on consumers under the powers of this Act; and (c) the cost to consumers of electricity produced by the project.

34 Page 11, line 28, at beginning insert “In exceptional circumstances,”

Member’s explanatory statement

This amendment makes provisions about the exclusion of sensitive material.

35 Page 11, line 35, after “to” insert “seriously”

Member’s explanatory statement

This amendment makes provisions about the exclusion of sensitive material.

36 Page 11, line 35, at end insert “where the Secretary of State has made a statement to Parliament that the prejudice to commercial interests is of such seriousness that it outweighs the public interest in –

- (i) the publication of material relevant to any charge on public funds arising from any provision of this Act;
- (ii) the determination of the regulated asset base charge that may be levied on consumers under the powers in this Act; and
- (iii) the cost to consumers of electricity produced by the project,”

Member’s explanatory statement

This amendment makes provisions about the exclusion of sensitive material.

Clause 19

LORD OATES
LORD TEVERSON

37 Page 16, line 12, at end insert –

“(4A) Revenue regulations must make provision to prevent electricity suppliers from recovering the costs of paying a revenue collection counterparty from customers claiming Universal Credit.”

Member’s explanatory statement

This amendment would mean that electricity bill payers who qualify for Universal Credit would not be liable for levies on their bills that pay into the RAB revenue collection fund.

LORD MCNICOL OF WEST KILBRIDE
As an amendment to Amendment 37

38 After “Universal Credit” insert “, or any legacy benefits specified in the regulations”

Member’s explanatory statement

This amendment would extend the scope of the amendment tabled by Lord Oates to make clear that costs may not be recovered from customers who claim certain legacy benefits.

Clause 32

LORD MCNICOL OF WEST KILBRIDE

39 Page 24, line 28, at end insert –

“(5A) If the Secretary of State is of the opinion that a relevant licensee nuclear company cannot be rescued as a going concern, or that a transfer of the undertaking to a wholly owned subsidiary will not result in the establishment of a going concern, the Secretary of State must, as soon as practicable –

- (a) undertake an assessment of the merits of establishing a Government-owned company into which the assets, liabilities and undertakings of the relevant licensee nuclear company may be transferred in order to allow electricity supply to be commenced or continued, and
- (b) lay the outcome of the assessment before both Houses of Parliament.”

Member’s explanatory statement

Where the Secretary of State is of the opinion that a failed company cannot be rescued as a going concern or successfully have its assets transferred to a subsidiary, this amendment would require the Government to assess the case for establishing a state-owned company to continue operations.

LORD FOSTER OF BATH
LORD OATES

40 Page 24, line 30, at end insert –

“(7) Prior to a transfer falling within section 32(3), the Secretary of State must lay a report before Parliament.

(8) The report under subsection (7) must set out –

- (a) the liabilities associated with the nuclear company;

Clause 32 - continued

- (b) any estimated costs of getting the plant operational again if it has been temporarily shut down;
- (c) the estimated lifespan of the nuclear power station; and
- (d) decommissioning costs and confirmation of any funding provided by the nuclear company for this purpose.”

Member’s explanatory statement

This amendment would require the Secretary of State to publish a report on the matters listed prior to any transfers falling within Clause 32(3).

Clause 36

LORD FOSTER OF BATH

41 Page 28, line 34, at end insert –

“(ga) the relevant upper tier local authority covering the site for the nuclear project,”

Member’s explanatory statement

This amendment would require the Secretary of State to consult the relevant upper tier local authority under this section.

Clause 40

LORD VAUX OF HARROWDEN

42 Page 31, line 25, after “disregarded” insert “if A holds no shares in B, or in the case of paragraph (b) if A held no shares in B prior to the exercise of relevant share security rights”

Member’s explanatory statement

This amendment is intended to remove a potential loophole that would allow a party to structure its ownership in order to avoid being treated as being associated. The amendment is designed to allow genuine debt providers to benefit from the exemptions as intended, but to prevent the exemptions being used by shareholders.

After Clause 41

LORD FOSTER OF BATH

LORD OATES

43 Insert the following new Clause –

“Report on proposed payments to a nuclear administrator or relevant licensee nuclear company

- (1) Prior to making payments for the purpose described in section 41(2)(c), the Secretary of State must prepare and publish a report on the proposed payment and must lay a copy of the report before Parliament.
- (2) Before the payment is made, the report under subsection (1) must be approved by the House of Commons.”

Member's explanatory statement

This new Clause would require any payments under Clause 41(2)(c) to be approved by the House of Commons before being made.

Clause 44

BARONESS BENNETT OF MANOR CASTLE

44 Page 34, line 1, leave out paragraph (c)

45 Page 34, line 2, at end insert –

“(3) Part 3 (except as mentioned in subsection (1)(c)) comes into force on such day as the Secretary of State may by regulations appoint, but the Secretary of State may not appoint such a day unless the Secretary of State –

- (a) is satisfied that measures are in place for the safe treatment and disposal of any nuclear material that is likely to be produced as a result of the operation of that Part, and
- (b) has laid a report before Parliament to that effect.”

Member's explanatory statement

This would prevent financing being made available to nuclear companies until a plan exists for the safe treatment and disposal of the nuclear waste generated.

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4 March 2022
