

Energy Bill [HL]

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Supplementary to the Fifth Marshalled List]

Before Clause 225

LORD CALLANAN

Before Clause 225, insert the following new Clause –

“CHAPTER 1

OFFSHORE WIND ELECTRICITY GENERATION

Meaning of “relevant offshore wind project”

In this Chapter, “relevant offshore wind project” means a project involving the planning, construction, operation or decommissioning of –

- (a) a generating station in the UK marine area, that generates electricity from wind, or
- (b) infrastructure, in the UK marine area, used or intended for use in connection with a generating station within paragraph (a).”

Member's explanatory statement

This new Clause, to be inserted as the beginning of a Chapter 1 for Part 11 of the Bill about offshore wind electricity generation, defines what is meant by “relevant offshore wind project”.

LORD CALLANAN

Before Clause 225, insert the following new Clause –

“Strategic compensation for adverse environmental effects

- (1) This section applies where a public authority is subject to one or more environmental compensation obligations in relation to one or more relevant offshore wind projects.
- (2) “Environmental compensation obligation” means –
 - (a) a statutory duty (however expressed) to secure that measures are taken to compensate for adverse environmental effects of a project, or

- (b) a statutory condition (however expressed) requiring a public authority, before granting consent for the doing of an act by a person (“P”) in connection with a project, to be satisfied that P will take or secure the taking of measures to compensate for adverse environmental effects of the act.
- (3) The public authority may determine that—
- (a) measures taken or secured by the authority in the exercise of any of its functions, or
 - (b) measures to be taken or secured by the authority in the exercise of any of its functions,
- are to count towards discharging the environmental compensation obligation or obligations to which the authority is subject.
- (4) In this Chapter, “adverse environmental effect” means—
- (a) anything that adversely affects the integrity of any site comprised in the national site network, or
 - (b) anything that hinders the achievement of the conservation objectives stated for a protected marine area.
- (5) The measures referred to in subsection (3) may be measures taken at the site or sites of the project or projects to which the measures relate or elsewhere.
- (6) In this section—
- “act” includes omission;
- “the national site network” has the same meaning as in the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
- “protected marine area” means an area designated under—
- (a) section 116 of the Marine and Coastal Access Act 2009 or section 13 of the Marine Act (Northern Ireland) 2013 (c. 10 (N.I.)) (marine conservation zones), or
 - (b) section 67(1)(a) of the Marine (Scotland) Act 2010 (asp 5) (marine protected areas);
- “statutory”, in relation to a duty or condition, means imposed by or under primary legislation.
- (7) For the purposes of subsection (3), a public authority (“authority A”) may, with the consent of another public authority (“authority B”), treat measures taken or secured (or to be taken or secured) by authority B as taken or secured (or to be taken or secured) by authority A in the exercise of any of its functions.
- (8) In subsection (4)(b), the reference to the conservation objectives stated for a protected marine area is a reference to the conservation objectives stated for the area pursuant to (as the case may be) section 117(2)(b) of the Marine and Coastal Access Act 2009, section 14(2)(b) of the Marine Act (Northern Ireland) 2013 or section 68(3)(b) of the Marine (Scotland) Act 2010.”

Member's explanatory statement

This new Clause provides that where a public authority is under obligations relating to the provision of environmental compensation in relation to one or more relevant offshore wind projects, the

authority may allocate measures taken or secured by the authority towards the discharge of those obligations.

LORD CALLANAN

Before Clause 225, insert the following new Clause –

“Marine recovery fund

- (1) The Secretary of State may by regulations make provision for the establishment, operation and management of one or more marine recovery funds.
- (2) A marine recovery fund is a fund –
 - (a) into which payments may be made in respect of relevant offshore wind projects, and
 - (b) out of which payments may be made towards expenditure on measures to compensate for adverse environmental effects of one or more relevant offshore wind projects.
- (3) The following provisions of this section are without prejudice to the generality of subsection (1).
- (4) Regulations under this section may make provision –
 - (a) for and in connection with the determination of the extent to which a payment into the fund discharges a compensation condition imposed on a person in connection with the granting of consent in respect of a relevant offshore wind project;
 - (b) for a payment into the fund to be treated as discharging a compensation condition to the extent determined by virtue of paragraph (a).
- (5) “Compensation condition”, in relation to a person, means a condition requiring the person to take measures to compensate for adverse environmental effects of a relevant offshore wind project.
- (6) Regulations under this section may make provision –
 - (a) enabling payments to be made out of the fund towards expenditure described in subsection (2)(b);
 - (b) about the persons to whom such a payment may be made;
 - (c) enabling conditions to be imposed on a person to whom such a payment is made in connection with the taking of measures described in subsection (2)(b).
- (7) Regulations under this section may make provision –
 - (a) about the recovery of costs incurred in connection with the exercise of functions conferred by the regulations;
 - (b) conferring functions, including functions involving the exercise of a discretion, on the Secretary of State;
 - (c) for the delegation of functions conferred on the Secretary of State.

- (8) Regulations made by virtue of subsection (7)(c) may provide that a function may be delegated –
- (a) to a Scottish public authority only if the function relates to the taking or securing of measures in Scotland;
 - (b) to a Welsh public authority only if the function relates to the taking or securing of measures in Wales;
 - (c) to a Northern Ireland public authority only if the function relates to the taking or securing of measures in Northern Ireland.
- (9) Regulations made by virtue of subsection (7)(c) must provide that the delegation of a function –
- (a) may be cancelled by the Secretary of State in accordance with the regulations;
 - (b) does not prevent the Secretary of State from carrying out any function delegated.
- (10) Regulations under this section are subject to the negative procedure.
- (11) References in this section to a Scottish public authority, a Welsh public authority or a Northern Ireland public authority are to a public authority whose functions are exercisable only or mainly in or as regards Scotland, Wales or Northern Ireland (as the case may be).”

Member's explanatory statement

This amendment provides for the establishment by regulations of one or more marine recovery funds, out of which payments may be made towards environmental compensation measures required as a result of relevant offshore wind projects.

LORD CALLANAN

Before Clause 225, insert the following new Clause –

“Assessment of environmental effects etc

- (1) The appropriate authority may by regulations make –
- (a) provision for and in connection with the assessment of the environmental effects of relevant offshore wind projects in relation to protected sites;
 - (b) provision about the taking or securing of measures by a public authority in compensation for any adverse environmental effects of a relevant offshore wind project in relation to protected sites (“compensatory measures”).
- (2) The appropriate authority is the Secretary of State, subject to paragraphs (a) to (c) –
- (a) the Scottish Ministers are the appropriate authority in relation to relevant offshore wind projects in the Scottish inshore region, other than in relation to qualifying Secretary of State functions;
 - (b) the Welsh Ministers are the appropriate authority in relation to relevant offshore wind projects in the Welsh inshore region, subject to subsection (3) and other than in relation to qualifying Secretary of State functions;

- (c) DAERA is the appropriate authority in relation to relevant offshore wind projects in the Northern Ireland inshore region, other than in relation to qualifying Secretary of State functions.
- (3) In subsection (2)(b), “relevant offshore wind project” does not include a project relating to a generating station that has a capacity such that the construction or extension of the generating station would be a nationally significant infrastructure project (within the meaning given by sections 14 and 15 of the Planning Act 2008).
- (4) The provision that may be made by virtue of subsection (1) includes provision –
- (a) specifying the matters to be dealt with by an assessment;
 - (b) about the procedure to be followed in carrying out an assessment, including when an assessment must be carried out and matters that must be taken into account;
 - (c) specifying the person by whom an assessment, or a specified kind of assessment, must be carried out;
 - (d) requiring an assessment to be carried out by a specified person in specified circumstances;
 - (e) authorising or requiring the supply of information (including information the supply of which would not otherwise be permitted) for the purposes of an assessment;
 - (f) enabling a person carrying out an assessment (an “assessor”) to require a person who has applied for consent to provide the assessor with assistance for the purposes of or in connection with the assessment;
 - (g) prohibiting the granting of consent in respect of a project where an assessment has not been carried out in accordance with the regulations;
 - (h) about when or how compensatory measures must or may be provided;
 - (i) disapplying or otherwise modifying, whether generally or in specified circumstances or subject to specified conditions –
 - (i) any of the provisions listed in subsection (5)(a), (b), (c) or (d) (as the case may be);
 - (ii) any relevant Habitats Directive rights.
- (5) The provisions referred to in subsection (4)(i)(i) are –
- (a) in the case of regulations made by the Secretary of State –
 - (i) section 126 of the Marine and Coastal Access Act 2009;
 - (ii) regulations 9 and 10 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
 - (iii) regulations 6, 27, 28 and 30 to 37 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013);
 - (iv) any other provision that relates to the taking or securing of compensatory measures, where the provision is made by or under an Act;
 - (b) in the case of regulations made by the Scottish Ministers –
 - (i) section 83 of the Marine (Scotland) Act 2010 (asp 5);
 - (ii) regulations 3 and 3A and Part 4 of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716);

- (iii) regulations 9 and 10 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
 - (iv) any other provision that relates to the taking or securing of compensatory measures in or in relation to the Scottish inshore region, where the provision is made by or under an Act of the Scottish Parliament;
 - (c) in the case of regulations made by the Welsh Ministers –
 - (i) section 126 of the Marine and Coastal Access Act 2009;
 - (ii) regulations 9 and 10 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
 - (iii) any other provision that relates to the taking or securing of compensatory measures, where the provision is made by or under an Act or Measure of Senedd Cymru;
 - (d) in the case of regulations made by DAERA –
 - (i) section 23 of the Marine Act (Northern Ireland) 2013;
 - (ii) regulations 3 and 3A and Part 4 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (S.R. (N.I.) 1995 No. 380);
 - (iii) regulations 9 and 10 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
 - (iv) any other provision that relates to the taking or securing of compensatory measures in or in relation to the Northern Ireland inshore region, where the provision is made by or under Northern Ireland legislation.
- (6) But regulations under this section may not disapply or otherwise modify, or make provision which could undermine or circumvent –
 - (a) section 126(7)(a) or (b) of the Marine and Coastal Access Act 2009, section 83(4)(b)(i) or (ii) of the Marine (Scotland) Act 2010 or section 23(7)(a) or (b) of the Marine Act (Northern Ireland) 2013,
 - (b) regulation 64 of the Conservation of Habitats and Species Regulations 2017,
 - (c) regulation 29 of the Conservation of Offshore Marine Habitats and Species Regulations 2017,
 - (d) regulation 49 of the Conservation (Natural Habitats, &c.) Regulations 1994,
 - (e) regulation 44 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995, or
 - (f) any provision about qualifying Secretary of State functions (unless the regulations are made by the Secretary of State).
- (7) Regulations under this section may make provision –
 - (a) enabling the appropriate authority to direct a person to take steps or to refrain from taking steps;
 - (b) requiring a person given such a direction to comply with it.
- (8) Regulations under this section may require the appropriate authority or a specified person –

- (a) to give guidance about specified matters;
 - (b) to consult specified persons, or persons of a specified description, before giving guidance by virtue of paragraph (a).
- (9) Regulations under this section may confer functions, including functions involving the exercise of a discretion –
- (a) in the case of regulations made by the Secretary State, on any person;
 - (b) in any other case, on a person other than a Minister of the Crown.
- (10) The functions that may be conferred on a person by virtue of subsection (9) include a function of giving advice in relation to the application or exercise of any other function, whether exercisable by that or another person, under or by virtue of regulations under this section.
- (11) In this section –
- “protected site” has the meaning determined in accordance with regulations under this section; and those regulations –
 - (a) must be framed so that protected sites consist of natural habitats or habitats of species, and
 - (b) must in particular include protected marine areas;
 - “qualifying Secretary of State functions” means functions of the Secretary of State in relation to relevant offshore wind projects in (as the case may be) the Scottish inshore region, the Welsh inshore region or the Northern Ireland inshore region;
 - “relevant Habitats Directive rights” means rights, powers, liabilities, obligations, restrictions, remedies and procedures that continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 (including as they are modified by domestic law from time to time), so far as derived from Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
 - “specified” means specified in regulations under this section.”

Member's explanatory statement

This new Clause enables the Secretary of State, the Scottish and Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland to make regulations about the assessment of environmental effects of relevant offshore wind projects and about environmental compensation.

LORD CALLANAN

Before Clause 225, insert the following new clause –

“Regulations under section (*Assessment of environmental effects etc*): consultation and procedure

- (1) The Secretary of State must, before making regulations under section (*Assessment of environmental effects etc*), consult –
- (a) the Marine Management Organisation,

- (b) the Joint Nature Conservation Committee,
 - (c) Natural England,
 - (d) the Scottish Ministers and Scottish Natural Heritage, so far as the regulations relate to relevant offshore wind projects or protected sites in Scotland,
 - (e) the Welsh Ministers and the Natural Resources Body for Wales, so far as the regulations relate to relevant offshore wind projects or protected sites in Wales,
 - (f) DAERA, so far as the regulations relate to protected sites in Northern Ireland, and
 - (g) such other persons as the Secretary of State considers appropriate.
- (2) Regulations made by the Secretary of State under section (*Assessment of environmental effects etc*) are subject to the affirmative procedure.
- (3) The Scottish Ministers must, before making regulations under section (*Assessment of environmental effects etc*), consult –
- (a) the Secretary of State,
 - (b) the Marine Management Organisation, so far as the regulations relate to protected sites in England or the Northern Ireland offshore region,
 - (c) Natural England, so far as the regulations relate to protected sites in England,
 - (d) the Joint Nature Conservation Committee, so far as the regulations relate to protected sites in such part of the UK marine area as is beyond the seaward limits of the territorial sea,
 - (e) Scottish Natural Heritage, so far as the regulations relate to protected sites in Scotland,
 - (f) the Welsh Ministers and the Natural Resources Body for Wales, so far as the regulations relate to protected sites in Wales,
 - (g) DAERA, so far as the regulations relate to protected sites in Northern Ireland, and
 - (h) such other persons as they consider appropriate.
- (4) Regulations made by the Scottish Ministers under section (*Assessment of environmental effects etc*) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (5) The Welsh Ministers must, before making regulations under section (*Assessment of environmental effects etc*), consult –
- (a) the Secretary of State;
 - (b) the Marine Management Organisation, so far as the regulations relate to protected sites in England or the Northern Ireland offshore region,
 - (c) Natural England, so far as the regulations relate to protected sites in England,
 - (d) the Joint Nature Conservation Committee, so far as the regulations relate to protected sites in such part of the UK marine area as is beyond the seaward limits of the territorial sea,

- (e) the Scottish Ministers and Scottish Natural Heritage, so far as the regulations relate to protected sites in Scotland,
 - (f) the Natural Resources Body for Wales, so far as the regulations relate to protected sites in Wales,
 - (g) DAERA, so far as the regulations relate to protected sites in Northern Ireland, and
 - (h) such other persons as they consider appropriate.
- (6) The power of the Welsh Ministers to make regulations under section (*Assessment of environmental effects etc*) is exercisable by statutory instrument.
- (7) A statutory instrument containing regulations made by the Welsh Ministers under section (*Assessment of environmental effects etc*) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) DAERA must, before making regulations under section (*Assessment of environmental effects etc*), consult –
- (a) the Secretary of State,
 - (b) the Marine Management Organisation, so far as the regulations relate to protected sites in England or the Northern Ireland offshore region,
 - (c) Natural England, so far as the regulations relate to protected sites in England,
 - (d) the Joint Nature Conservation Committee, so far as the regulations relate to protected sites in such part of the UK marine area as is beyond the seaward limits of the territorial sea,
 - (e) the Scottish Ministers and Scottish Natural Heritage, so far as the regulations relate to protected sites in Scotland,
 - (f) the Welsh Ministers and the Natural Resources Body for Wales, so far as the regulations relate to protected sites in Wales, and
 - (g) such other persons as DAERA considers appropriate.
- (9) The power of DAERA to make regulations under section (*Assessment of environmental effects etc*) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (10) Regulations may not be made under section (*Assessment of environmental effects etc*) by DAERA unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (11) In this section, “protected site” has the same meaning as in section (*Assessment of environmental effects etc*).

Member's explanatory statement

The new Clause inserted by this amendment sets out consultation and other procedural requirements relating to the making of regulations under the new Clause about assessment of environmental effects of relevant offshore wind projects.

LORD CALLANAN

Before Clause 225, insert the following new Clause –

“Interpretation of Chapter

(1) In this Chapter –

“adverse environmental effect” has the meaning given by section (*Strategic compensation for adverse environmental effects*)(4);

“consent” means any consent, approval, permission, authorisation or confirmation (however described or given) that is required, or otherwise provided for, by or under primary legislation;

“DAERA” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

“England” includes the English inshore region and the English offshore region;

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

“Northern Ireland” includes the Northern Ireland inshore region;

“primary legislation” means –

- (a) an Act,
- (b) an Act or Measure of Senedd Cymru,
- (c) an Act of the Scottish Parliament, or
- (d) Northern Ireland legislation;

“protected marine area” has the meaning given by section (*Strategic compensation for adverse environmental effects*)(6);

“public authority” means –

- (a) a Minister of the Crown,
- (b) the Scottish Ministers,
- (c) the Welsh Ministers,
- (d) a Northern Ireland department, or
- (e) any other person with functions of a public nature;

“relevant offshore wind project” has the meaning given by section (*Meaning of “relevant offshore wind project”*);

“Scotland” includes the Scottish inshore region and the Scottish offshore region;

“UK marine area” has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009;

“Wales” includes the Welsh inshore region and the Welsh offshore region.

(2) References in this Chapter to the English, Scottish, Welsh or Northern Ireland inshore and offshore regions are to be construed in accordance with the Marine and Coastal Access Act 2009 (see section 322 of that Act).”

Member's explanatory statement

The new Clause inserted by this amendment contains some further definitions of expressions used in the new Chapter consisting of the new Clauses inserted by the amendments in Lord Callanan's name for insertion before Clause 225.

After Clause 237

LORD CALLANAN

After Clause 237, insert the following new Clause –

“CHAPTER 3**RELEVANT NUCLEAR PENSION SCHEMES****Civil nuclear industry: amendment of relevant nuclear pension schemes**

- (1) The Secretary of State may by regulations make provision requiring a designated person to amend the provisions of a relevant nuclear pension scheme in respect of which the person is designated –
 - (a) for the purpose of making scheme-specific changes;
 - (b) for the purpose of making changes that relate to any scheme-specific changes;
 - (c) for the purpose of making contribution rate adjustments.
- (2) “Scheme-specific changes”, in relation to a relevant nuclear pension scheme, are changes that –
 - (a) relate to defined benefits for members of the scheme, and
 - (b) are in connection with one or more of the matters mentioned in subsection (3).
- (3) Those matters are –
 - (a) securing that the structure under which the defined benefits in question accrue is a career average revalued earnings structure (in particular where it would otherwise be a final salary structure);
 - (b) providing for other changes to the amounts of such of those defined benefits as are payable in respect of members of the scheme;
 - (c) providing for revaluations of pensionable earnings, or of benefits in deferment or pensions in payment, to be by reference to the consumer prices index (and not the retail prices index) but not involving imposing a cap on any revaluation or revaluation rate;
 - (d) setting percentage rates, for contributions to the scheme by members of the scheme, that are higher than they would otherwise be;
 - (e) setting periods for which contributions to the scheme by members of the scheme are required to be made that are longer than they would otherwise be.

- (4) Amendments made by virtue of subsection (1)(b) may include amendments relating to benefits provided under the scheme other than defined benefits.
- (5) “Contribution rate adjustments” means such adjustments—
 - (a) to the rates of contributions to the scheme by its members in respect of defined benefits, or
 - (b) to the salary bands to which such contribution rates apply, as are considered appropriate by the designated person (acting on actuarial advice) to ensure that the average contribution rate for members of the scheme in respect of defined benefits is as close as reasonably practicable to 8.2%.
- (6) Where a person is required by regulations under this section to amend the provisions of a relevant nuclear pension scheme, the amendments may be made—
 - (a) free from any consent requirements set out in the scheme, and
 - (b) notwithstanding provision made by or under any other Act of Parliament, or any rule of law, that would otherwise prevent or limit, or impose conditions on, the making of the amendments.
- (7) Amendments made by virtue of subsection (1)(a)—
 - (a) must not relate to service prior to the date on which the amendments are made;
 - (b) may be made in the case of a particular scheme on one occasion only.
- (8) Nothing in this section limits any power that a designated person has to amend a relevant nuclear pension scheme.
- (9) A person may not be designated in relation to a relevant nuclear pension scheme unless it appears to the Secretary of State that the person has the power to amend the scheme.
- (10) In this section, “designated” means designated by regulations under this section.”

Member's explanatory statement

This new Clause is the first Clause in a new Chapter of Part 12 of the Bill (also containing the other new Clauses inserted after Clause 237 by amendments in Lord Callanan's name). This new Clause enables regulations to be made requiring persons with responsibility for pension schemes for public sector employees in the nuclear sector to amend those schemes in line with wider changes to public sector pensions.

LORD CALLANAN

After Clause 237, insert the following new Clause—

“Meaning of “relevant nuclear pension scheme”

- (1) In this Chapter, “relevant nuclear pension scheme” means—
 - (a) a pension scheme maintained by or on behalf of the NDA under or by virtue of section 8(1)(a) or (b) of the Energy Act 2004, or
 - (b) subject to subsections (2) and (3), a scheme that provides for the payment of pensions or other benefits to or in respect of persons who are, or have

been, employed to perform duties relating to matters that correspond or are similar to matters in respect of which the NDA has functions.

- (2) A scheme of a kind mentioned in subsection (1)(b) is a relevant nuclear pension scheme only to the extent that the pensions or other benefits are provided in connection with employment by a person with public functions.
- (3) Subsection (1)(b) does not apply to—
 - (a) a UKAEA pension scheme (within the meaning given by paragraph 1(1) of Schedule 8 to the Energy Act 2004);
 - (b) a scheme that provides for the payment of pensions or other benefits to or in respect of persons specified in section 1(2) of the Public Service Pensions Act 2013 (schemes for persons in public service).
- (4) In this section, “the NDA” means the Nuclear Decommissioning Authority.”

Member's explanatory statement

This new Clause defines “relevant nuclear pension scheme” for the purposes of the Chapter consisting of the new Clauses in Lord Callanan’s name inserted after Clause 237.

LORD CALLANAN

After Clause 237, insert the following new Clause—

“Information

- (1) This section applies where a person (“P”) is required by regulations under section (*Civil nuclear industry: amendment of relevant nuclear pension schemes*) to amend a relevant nuclear pension scheme.
- (2) P may require a person who holds relevant information to provide it to P.
- (3) “Relevant information” means any information or data that P reasonably requires in connection with deciding whether, or how, to amend the scheme.
- (4) Except as provided by subsection (5), the disclosure of information under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (5) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed under subsection (2) is to be taken into account).”

Member's explanatory statement

This new Clause gives a person who is required, by regulations under the first of the new Clauses in Lord Callanan’s name inserted after Clause 237, to amend a relevant nuclear pension scheme the power to require persons with relevant information to provide that information.

LORD CALLANAN

After Clause 237, insert the following new Clause –

“Further definitions

- (1) This section applies for the purposes of this Chapter.
- (2) References to the amendment of a relevant nuclear pension scheme include references to the amendment of any one or more of the following –
 - (a) the trust deed of the scheme, if there is one;
 - (b) rules of the scheme;
 - (c) any other instrument relating to the constitution, management or operation of the scheme.
- (3) References to a relevant nuclear pension scheme include references to any section into which the scheme is divided.
- (4) A “career average revalued earnings structure” is a structure where –
 - (a) the pension payable to or in respect of a person, so far as it is based on the person’s pensionable service, is determined by reference to the person’s pensionable earnings in each year of pensionable service, and
 - (b) those earnings, or a proportion of those earnings accrued as a pension, are under the structure revalued each year until the person leaves pensionable service.
- (5) “Consumer prices index” means –
 - (a) the general index of consumer prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board.
- (6) “Defined benefits” are benefits –
 - (a) that are not money purchase benefits (within the meaning of the Pension Schemes Act 1993), and
 - (b) that are not provided under an injury or compensation scheme (within the meaning of the Public Service Pensions Act 2013).
- (7) A “final salary structure” is a structure where entitlement to the pension payable to or in respect of a person which is based on the pensionable service of that person is or may be determined to any extent by reference to the person’s final salary; and “final salary” here means the person’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the person’s pensionable service in relation to the structure terminates.
- (8) “Retail prices index” means –
 - (a) the general index of retail prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board.”

Member's explanatory statement

This new Clause sets out definitions relevant to the provisions about amendment of relevant nuclear pension schemes.

LORD CALLANAN

After Clause 237, insert the following new Clause –

“Application of relevant pensions legislation

- (1) The Secretary of State may by regulations make –
 - (a) such provision about the application of relevant pensions legislation in relation to persons of a specified description, or
 - (b) such amendments of relevant pensions legislation,as the Secretary of State considers appropriate for the purposes of or in connection with the amendment of a relevant nuclear pension scheme in pursuance of regulations under section (*Civil nuclear industry: amendment of relevant nuclear pension schemes*).
- (2) In this section –

“relevant pensions legislation” means –

 - (a) Schedule 8 to the Energy Act 2004 (pensions), or
 - (b) regulations made under Schedule 14 or 15 to the Electricity Act 1989 (the Electricity Supply Pension Scheme etc);

“specified” means specified in regulations under subsection (1).”

Member's explanatory statement

This new Clause enables the Secretary of State to make regulations about the application of relevant pensions legislation, or amending relevant pensions legislation, in connection with the amendment of a relevant nuclear pension scheme in pursuance of regulations under the first of the new Clauses inserted by the amendments in Lord Callanan’s name inserting new Clauses after Clause 237.

LORD CALLANAN

After Clause 237, insert the following new Clause –

“Procedure for regulations

- (1) Regulations under this Chapter are subject to the affirmative procedure.
- (2) If, apart from this subsection, a draft of an instrument containing regulations under this Chapter would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.”

Member's explanatory statement

This new Clause provides that a statutory instrument containing regulations under any provision of the new Chapter of Part 12 (consisting of the new Clauses inserted after Clause 237 by the

amendments in Lord Callanan's name) is subject to the affirmative procedure. It also provides for the disapplication of the hybrid instrument procedure in the House of Lords.

Clause 239

LORD CALLANAN

Clause 239, page 204, line 8, at end insert –

“(6) Subsection (3) does not apply to regulations made by the Scottish Ministers under section (*Assessment of environmental effects etc.*)”

Member's explanatory statement

This amendment ensures that the provision about affirmative procedure in the UK Parliament does not apply to regulations made by the Scottish Ministers under the new Clause relating to assessment of environmental effects of offshore wind projects (which will instead be subject to affirmative procedure in the Scottish Parliament).

Clause 241

LORD CALLANAN

Clause 241, page 204, line 24, at end insert –

“(ha) Chapter 3 of Part 12;”

Member's explanatory statement

This amendment provides for the new Clauses in Lord Callanan's name to be inserted after Clause 237 to extend to England and Wales, Scotland and Northern Ireland.

Clause 242

LORD CALLANAN

Clause 242, page 205, line 12, at end insert –

“(ca) Chapter 3 of Part 12;”

Member's explanatory statement

This amendment provides for the new Clauses in Lord Callanan's name to be inserted after Clause 237 to come into force on the day on which the Bill receives Royal Assent.

LORD CALLANAN

Clause 242, page 205, line 22, at end insert –

“(ga) Chapter 1 of Part 11;”

Member's explanatory statement

This amendment provides for the new Chapter for Part 11, comprising the new Clauses inserted before Clause 225 by the amendments in Lord Callanan's name, to come into force 2 months after Royal Assent.

Title

LORD CALLANAN

Title, line 11, after "Constabulary" insert "and pensions"

Member's explanatory statement

This amendment amends the long title.

Energy Bill [HL]

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Supplementary to the Fifth Marshalled List]

9 January 2023

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