



Nuclear Safeguards Bill HL Bill 81 of 2017–19

Summary

The [Nuclear Safeguards Bill](#) is a government bill introduced in the House of Commons on 11 October 2017. The Bill passed its House of Commons stages without being amended. It received first reading in the House of Lords on 24 January 2018 and is scheduled to have its second reading in the Lords on 7 February 2018.

The Bill is one of a number of the so-called ‘Brexit bills’ in the 2017 Queen’s Speech. In 2017, the Government confirmed that the UK would be leaving Euratom as a result of its departure from the EU. The purpose of the Bill is to enable the Secretary of State to establish a new domestic safeguarding regime for the UK’s civil nuclear industry following the UK’s departure from Euratom. For this purpose, the Bill provides for the expansion of the remit of the UK regulator, the Office for Nuclear Regulation (ONR), and would enable the UK to enter new bilateral international treaties on nuclear safeguarding outside Euratom.

The UK, as a signatory to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, has responsibility to safeguard against civilian nuclear material being diverted into military or weapons programmes. Since it entered Euratom in 1973, the UK has relied upon Euratom to help maintain safeguarding standards. The Government has stated its wish to retain a close relationship with Euratom once it ceases to be a member in March 2019. However, the Government has argued that the establishment of the UK’s own independent safeguarding regime was an important contingency measure in case such an arrangement with Euratom could not be agreed.

The Opposition has stated its support for the principle aim of the Bill. However, a number of concerns were raised in the Commons, including regarding the capacity of the ONR to take on new safeguarding responsibilities under the Bill. The Opposition also criticised the Henry VIII powers that would be granted to the Secretary of State.

This Briefing provides a summary of scrutiny of the Bill in the House of Commons, including at report stage and third reading. It should be read in conjunction with the [Explanatory Notes](#) to the Bill, produced by the Department for Business, Energy and Industrial Strategy.

Table of Contents

1. Purpose of the Bill
2. Commons Second Reading
3. Committee Report: Brexit and the Civil Nuclear Sector
4. Commons Committee Stage
5. Government Publications after Committee Stage
6. Government Statement: Energy Policy
7. Commons Report Stage
8. Commons Third Reading

Table of Contents

1. Purpose of the Bill	1
2. Commons Second Reading	3
3. Committee Report: Brexit and the Civil Nuclear Sector	4
4. Commons Committee Stage	4
4.1 Oral Evidence.....	4
4.2. Committee Stage: Amendments to the Bill.....	5
5. Government Publications after Committee Stage	7
6. Government Statement: Energy Policy	7
7. Commons Report Stage	8
8. Commons Third Reading	12

A full list of Lords Library briefings is available on the [research briefings page](#) on the internet. The Library publishes briefings for all major items of business debated in the House of Lords. The Library also publishes briefings on the House of Lords itself and other subjects that may be of interest to Members.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, authoritative, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on Library briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.

I. Purpose of the Bill

The UK is a signatory to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT).¹ As such, the UK has to meet the international standards established by the International Atomic Energy Agency (IAEA) regarding the safeguarding of civilian nuclear material so that it is not diverted into military or weapons programmes.² Since joining the European Atomic Energy Community (Euratom) in 1973, the UK has relied upon Euratom to set its safeguarding standards and ensure that it meets its international obligations.³ Euratom also provides support to member states, such as providing independent inspectors for nuclear facilities.⁴

In 2017, the Government announced that the UK would be leaving Euratom at the same time as leaving the EU.⁵ While the European Union and Euratom are separate legal entities, Euratom includes all the members of the EU and shares the same institutional framework.⁶ The Government has argued that the UK's departure from Euratom is an inevitable consequence of the decision to leave the EU.⁷

As part of the negotiation of the UK's future relationship with the European Union, the Government is seeking to establish a close relationship with Euratom to enable continued cooperation on safeguarding.⁸ However, the Government has said that the UK must establish its own safeguarding regime as a contingency if no agreement is reached.⁹ This would be necessary to ensure that the UK can continue to meet its safeguarding obligations.¹⁰

The five nuclear-weapon States parties to the NPT, of which the UK is one, have concluded voluntary offer safeguards agreements under which the IAEA applies safeguards to nuclear material in facilities that the State has voluntarily offered and the IAEA has selected for the application of safeguards.¹¹ The IAEA applies safeguards under a voluntary offer agreement

¹ United Nations, '[Treaty on the Non-Proliferation of Nuclear Weapons](#)', accessed 29 January 2018.

² Department for Business, Energy and Industrial Strategy, '[Nuclear Safeguards Bill: Impact Assessment](#)', 8 December 2018, p 1.

³ Department for Exiting the European Union, '[Nuclear Materials and Safeguards Issues: Position Paper](#)', 13 July 2017, p 1.

⁴ Further information on the role of Euratom in the UK is provided in the House of Commons Library Briefing, '[Euratom](#)' (21 December 2017).

⁵ *ibid.*

⁶ Further information on the relationship between the European Union and Euratom is provided in the House of Lords Library Briefing, '[Leaving the European Union: Euratom](#)' (23 February 2017).

⁷ Department for Business, Energy and Industrial Strategy, '[Nuclear Safeguards Bill: Impact Assessment](#)', 8 December 2018, p 1.

⁸ Department for Exiting the European Union, '[Nuclear Materials and Safeguards Issues: Position Paper](#)', 13 July 2017, p 1.

⁹ [HC Hansard, 16 October 2017, col 617.](#)

¹⁰ Department for Business, Energy and Industrial Strategy, '[Nuclear Safeguards Bill: Publication of Draft Regulations](#)', 19 January 2018, p 2.

¹¹ International Atomic Energy Agency, '[Safeguards Agreements](#)', accessed 31 January 2018.

to verify that nuclear material remains in peaceful activities and is not withdrawn from safeguards except as provided for in the agreement. The UK's agreements—a Voluntary Offer Agreement and an Additional Protocol to the Voluntary Offer Agreement—are trilateral agreements between the IAEA, the UK and Euratom.¹² The UK's current safeguards obligations are primarily fulfilled through the UK's membership of Euratom and compliance with Euratom regulations.

As a result of the UK's withdrawal from Euratom, the trilateral agreements will become ineffective, and the UK would need to conclude new bilateral safeguards agreements with the IAEA in connection with the NPT.

The Nuclear Safeguards Bill seeks to establish a new domestic safeguarding regime. This would be established by the UK Government through secondary legislation and would be regulated by the Office for Nuclear Regulation (ONR).¹³ The Bill does not cover other aspects of the UK's membership of Euratom, such as cooperation on issues such as research and development.¹⁴

Provisions

The Bill includes the following provisions:

- Clause 1(1) of the Bill would amend the Energy Act 2013 to expand the existing remit of the ONR in regard to nuclear safeguarding.¹⁵ The ONR would ensure the UK's civil nuclear power industry is compliant with both the new regulations to be drafted by the Secretary of State and any relevant international obligations.
- Clause 1(2) would grant powers to the Secretary of State to lay regulations before Parliament to ensure that nuclear material, facilities and equipment are used for civil activities and to give effect to relevant international obligations.¹⁶ The Secretary of State would be required to consult with the ONR before laying these regulations before Parliament.

The parliamentary procedure for these regulations would be governed by the existing rules for statutory instruments set out in the Energy Act 2013. The initial regulations relating to nuclear safeguards would have to follow affirmative procedure and subsequent regulations would only need to follow negative

¹² Department for Business, Energy and Industrial Strategy, [Nuclear Safeguards Bill: Publication of Draft Regulations](#), 19 January 2018, p 2

¹³ [Explanatory Notes](#), p 2.

¹⁴ Department for Business, Energy and Industrial Strategy, [Nuclear Safeguards Bill: Impact Assessment](#), 8 December 2018, p 7.

¹⁵ [Explanatory Notes](#), p 6.

¹⁶ *ibid*, pp 6–8.

procedure.¹⁷ The majority of other powers in the Bill would follow the affirmative procedure.¹⁸

- Clause 2 of the Bill would enable the Secretary of State to amend existing legislation to enable new bilateral agreements between the UK and the IAEA to have legal force.¹⁹ As these regulations would enable amendments to primary legislation, this clause would grant so-called Henry VIII powers to the Secretary of State.²⁰

2. Commons Second Reading

The Bill was introduced in the House of Commons on 11 October 2017 and was debated at second reading on 16 October 2017.²¹ The Opposition stated its support for the principle of the Bill that the UK would need to establish its own safeguarding regime were the UK to fail to achieve an agreement about Euratom. However, a number of concerns were raised:

- According to the two-year notice period given for the UK's withdrawal from Euratom, the earliest the UK might need to have its own safeguarding regime in place would be March 2019. The chair of the House of Commons Business, Energy and Industrial Strategy Committee, Rachel Reeves, argued that the Government should seek to establish a transition period for the purposes of agreeing what she described as equivalent to "associate membership" of Euratom.²²
- Concerns were also raised by Edward Vaizey (Conservative MP for Wantage), regarding the existing capacity in the ONR and whether it would be able to take on responsibilities granted to it under the Bill.²³ He argued that the UK would have to replace up to 40 members of Euratom staff working in the UK and that further new resources would have to be provided to the ONR.²⁴
- The Shadow Secretary of State for Business, Energy and Industrial Strategy, Rebecca Long Bailey, criticised the Henry VIII powers in clause 2, arguing that this would prevent Parliament

¹⁷ Department for Business, Energy and Industrial Strategy, [Memorandum Concerning the Delegated Powers in the Nuclear Safeguards Bill for the Delegated Powers and Regulatory Reform Committee](#), 24 January 2018, pp 7–8.

¹⁸ *ibid.*

¹⁹ [Explanatory Notes](#), p 8.

²⁰ Department for Business, Energy and Industrial Strategy, [Memorandum Concerning the Delegated Powers in the Nuclear Safeguards Bill for the Delegated Powers and Regulatory Reform Committee](#), 24 January 2018, p 22.

²¹ [HC Hansard, 16 October 2017, cols 617–85](#).

²² *ibid.*, col 639.

²³ *ibid.*, col 630.

²⁴ Edward Vaizey also raised this issue during the seventh day of committee stage of the European Union (Withdrawal) Bill: [HC Hansard, 13 December 2017, col 465](#). A summary of the debate on Mr Vaizey's amendment is provided in the House of Commons Library Briefing, [Commons Library Analysis of the Nuclear Safeguards Bill 2017–19](#) (23 January 2018).

being able to adequately scrutinise any new domestic safeguarding regime.²⁵

3. Committee Report: Brexit and the Civil Nuclear Sector

At the same time as scrutiny of the Nuclear Safeguards Bill in the House of Commons, the House of Commons Business, Energy and Industrial Strategy Committee published its report on the impact of leaving the EU on the civil nuclear sector.²⁶ The Committee concluded that the UK's departure from Euratom was an unwanted consequence of its departure from the EU and no one in the nuclear sector had advocated this outcome.²⁷ It argued that, while it was not possible to provide a meaningful financial estimate of the impact the UK's departure from Euratom was likely to have, the evidence pointed toward it having a considerable impact on the UK's civil nuclear sector. It also argued that there would be little advantage to be gained from regulatory divergence for the nuclear industry outside Euratom.

The Committee warned that it was “highly doubtful” that the UK would be able to implement levels of safeguards equal to those of Euratom by March 2019, and that it would even be a challenge for the UK to achieve the lower IAEA safeguarding standards.²⁸ It therefore concluded that the Government should seek to achieve “as close as possible an association” with Euratom whereby Euratom could continue to manage the UK's safeguarding regime.

The Committee gave its support for the Government's stated aim of reaching an association with Euratom which was as close as possible to existing arrangements, and which replicated the functions already conducted by Euratom on the UK's behalf.²⁹ However, it also argued that—if the UK Government was unable to secure this outcome—it should ensure that transitional arrangements with Euratom were in place for as long as was necessary to allow the ONR to become ready to take on these responsibilities.³⁰

4. Commons Committee Stage

4.1 Oral Evidence

As part of its scrutiny of the Bill at committee stage, MPs on the Public Bill Committee took evidence from a number of representatives from the UK's nuclear industry, including the Nuclear Industry Association, EDF Energy and

²⁵ [HC Hansard, 16 October 2017, col 628.](#)

²⁶ House of Commons Business, Energy and Industrial Strategy Committee, [Leaving the EU: Implications for the Civil Nuclear Sector](#), 13 December 2017, HC 378 of session 2017–19.

²⁷ *ibid*, p 2.

²⁸ *ibid*.

²⁹ *ibid*, p 23.

³⁰ *ibid*, p 11.

representatives of the trade unions Prospect and Unite.³¹ The Committee also took evidence from legal specialists in the field of nuclear energy, including the legal firm Prospect Law. There was general support from these witnesses for the main objective of the Bill, that the Government needed to be able to ensure that the UK was compliant with its international safeguarding obligations after its departure from Euratom.³² However, witnesses, including Senior Commercial and Nuclear Energy Lawyer at Prospect Law, Jonathan Leech, argued that the Bill should not be seen as a contingency measure.³³ Mr Leech argued that it was essential that the UK have its own regime in place at the earliest opportunity.

The ONR deputy chief inspector, Dr Mina Golshan, also gave evidence to the Committee.³⁴ Dr Golshan was asked whether the ONR would have capacity to take on the new responsibilities proposed in the Bill. She told the Committee that the ONR was in the process of recruiting new inspectors to replace those currently provided by Euratom: the ONR would be recruiting ten to twelve new inspectors in 2018, and would ultimately need another 20 to 25 if the UK was to take on the responsibilities for safeguarding from Euratom.³⁵

4.2. Committee Stage: Amendments to the Bill

During the six days of committee stage in the House of Commons, amendments were tabled by Opposition and SNP members of the Public Bill Committee. None of these amendments were made to the Bill; however some of the proposals were tabled again at report stage. No amendments were tabled by the Government.³⁶

The amendments at committee stage included the following:

- **Future Relations with Euratom:** A number of amendments were tabled to require the Government to make a statement to Parliament about either establishing associate membership of Euratom or to maintain existing arrangements.³⁷ New clause 2 was also tabled, which would have required the Government to seek to establish a two-year transition period following the UK's departure from Euratom, during which the existing arrangements

³¹ Public Bill Committee, [Nuclear Safeguards Bill, Compiled Sitings: 31 October to 14 November 2017](#), 14 November 2017, Q20–89.

³² *ibid*, 31 October 2017, Q62.

³³ *ibid*, Q32.

³⁴ *ibid*, Q1–20.

³⁵ *ibid*, Q 7.

³⁶ A detailed summary of the debate on the amendments tabled at committee stage is provided in the House of Commons Library Briefing, [Commons Library Analysis of the Nuclear Safeguards Bill 2017–19](#) (23 January 2018, pp 27–39).

³⁷ Amendments 1, 3 and 8: [Public Bill Committee, Nuclear Safeguards Bill, 2 November 2017, session 2017–19, 3rd sitting, cols 61–83](#).

with Euratom would continue to apply.³⁸

- Procedure for Statutory Instruments:** The Opposition tabled amendment 2 concerning statutory instruments that made changes to primary legislation implementing international treaties.³⁹ The amendment would have required that these regulations would always have to be subject to affirmative procedure. The Government argued that this would be unnecessary, as international treaties would already be subject to parliamentary approval under provisions of the Constitutional Reform and Governance Act 2010.

The Opposition also tabled amendments 9, 10 and 11 which would have required the affirmative procedure to apply to all regulations establishing a new nuclear safeguarding regime.⁴⁰ The Government argued that this would not be required as these new regulations would only be technical in nature.
- Henry VIII Powers:** The Opposition tabled amendments 5 and 6, both of which sought to limit the use of Henry VIII powers by the Secretary of State included in clause 2 of the Bill.⁴¹ Both of these amendments were put to a division and were defeated.
- Consultation on Regulations:** Prior to the beginning of committee stage, the Government had not published an impact assessment or draft regulations. Amendments 4, 12 and 13 would have required the Secretary of State to consult with the National Audit Office on the draft regulations.⁴² It would have also required the Secretary of State to publish an impact assessment and lay a statement before Parliament on the ability of the ONR to meet its new nuclear safeguarding responsibilities. New clause 5, tabled by the Business, Energy and Industrial Strategy spokesperson for the Scottish National Party, Drew Hendry, would have required the Government to consult with the devolved authorities.⁴³
- Purpose Clause:** New clause 1 would have added to the Bill a statement indicating that its purpose was to act as a contingency measure were the UK not able to reach a future association agreement with Euratom.⁴⁴
- Relationship with the IAEA:** New clause 4 would have required the Secretary of State to report to Parliament every three months after the passing of the Bill regarding the progress

³⁸ [Public Bill Committee, *Nuclear Safeguards Bill*, 14 November 2017, session 2017–19, 6th sitting, cols 129–36.](#)

³⁹ [ibid, 2 November 2017, session 2017–19, 3rd sitting, cols 47–61.](#)

⁴⁰ [ibid, 14 November 2017, session 2017–19, 5th sitting, cols 101–9.](#)

⁴¹ [ibid, cols 115–24.](#)

⁴² [ibid, 2 November 2017, session 2017–19, 4th sitting, cols 84–98.](#)

⁴³ [ibid, 14 November 2017, session 2017–19, 6th sitting, cols 139–42.](#)

⁴⁴ [ibid, 2 November 2017, session 2017–19, 3rd sitting, cols 62–83.](#)

of talks to establish a new bilateral agreement with the IAEA.⁴⁵

5. Government Publications after Committee Stage

Following the end of committee stage, the Government published a number of documents providing further information relevant to the Bill. Following calls during committee stage by the Opposition for the Government to publish an impact assessment, one was published on 8 December 2017.⁴⁶ This stated that the purpose of the Bill was to ensure that the UK was able to fulfil international safeguarding standards, and that these standards needed to be “as robust and as comprehensive as the current Euratom regime”.

On 19 January 2018, the Government published two draft statutory instruments outlining the potential wording of the regulations that the Secretary of State would be able to introduce under the powers in the Bill.⁴⁷ Prior to the publication of these draft regulations, the Opposition had tabled an amendment to the Bill at report stage, requiring that these draft regulations be published.⁴⁸ Subsequently, the Shadow Minister for Energy and Climate Change, Alan Whitehead, stated that, having had the opportunity to read them, the draft regulations appeared to be uncontroversial in their application of the powers outlined in the Bill.⁴⁹ However, he criticised the Government for the delay in their publication.

6. Government Statement: Energy Policy

On 11 January 2018, the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark, published a statement on the UK’s policy on negotiating a future agreement with Euratom.⁵⁰ In this statement, Mr Clark said that, with the conclusion of phase one of the UK’s negotiations with the EU, the UK would be able to negotiate its future relations with Euratom as part of phase two. This statement also addressed the following issues that had been raised during the scrutiny of the Nuclear Safeguards Bill in the House of Commons up to that point:

- Mr Clark stated that the Government’s proposed two-year ‘implementation period’ after March 2019 would cover Euratom, although the exact nature of the period would be subject to

⁴⁵ [Public Bill Committee, Nuclear Safeguards Bill, 14 November 2017, session 2017–19, 6th sitting, cols 136–9.](#)

⁴⁶ Department for Business, Energy and Industrial Strategy, [Nuclear Safeguards Bill: Impact Assessment](#), 8 December 2017.

⁴⁷ Department for Business, Energy and Industrial Strategy, ‘[The Nuclear Safeguards Regulations 20--](#)’, 19 January 2018; and ‘[The Nuclear Safeguards \(Civil Activities, Fissionable Material and Relevant International Agreements\) Regulations 20--](#)’, 19 January 2018. Further information is provided in the Department for Business, Energy and Industrial Strategy summary, ‘[Nuclear Safeguards Bill: Publication of Draft Regulations](#)’ (19 January 2018).

⁴⁸ Amendment 6: [HC Hansard, 23 January 2018, col 195.](#)

⁴⁹ *ibid*, col 200.

⁵⁰ House of Commons, ‘[Written Statement: Energy Policy](#)’, 11 January 2018, HCWS399.

- forthcoming negotiations with the EU.
- The Government committed to publish an update every three months on the progress of negotiations concerning the UK's future relationship with Euratom.

David Davis, Secretary of State for Exiting the European Union, set out his vision for the implementation period in a speech on 26 January 2018.⁵¹ He said that during the implementation period, the UK would no longer be an EU member state, but the EU and the UK would “continue to follow the same, stable set of laws and rules”. On 29 January 2018, ministers from the EU27 agreed negotiating directives covering what the EU refers to as the ‘transition period’, enabling formal negotiations on this matter to begin.⁵² The EU's position is that during the transition period, the whole of the EU *acquis* (body of law), including Euratom matters, would continue to apply to the UK as though it were still a member state, but the UK would no longer participate in the institutions and decision-making of the EU.⁵³

7. Commons Report Stage

Report stage in the House of Commons took place on 23 January 2018.⁵⁴ MPs debated two groups of amendments, some of which had previously been debated during committee stage. The first group concerned the UK's future relationship with Euratom and the period of time during which the UK had to negotiate an agreement and establish its own safeguarding regime. This debate was dominated by discussion of an Opposition proposal to establish a two-year transition period prior to the UK's departure from Euratom. The second group of amendments concerned the establishment of the new safeguarding regime and the use of Henry VIII powers in the Bill.

Transition Period

The Opposition reintroduced at report stage a proposal for the creation of a two-year transition period which had been tabled previously during committee stage. New clause I would have required the Secretary of State to seek a two-year transition period with Euratom prior to the UK's withdrawal. During this period, existing arrangements with Euratom would continue to apply. The Opposition stated that this period would provide the UK Government with more time to secure a future association agreement with Euratom.

⁵¹ Department for Exiting the European Union, ‘[David Davis' Teesport Speech: Implementation Period—A Bridge to the Future Partnership Between the UK and EU](#)’, 26 January 2018.

⁵² Council of the European Union, ‘[General Affairs Council \(Art 50\), 29/01/2018](#)’, 29 January 2018.

⁵³ Council of the European Union, ‘[Supplementary Directives for the Negotiation of an Agreement with the United Kingdom of Great Britain and Northern Ireland Setting Out the Arrangements for its Withdrawal from the European Union](#)’, 29 January 2018.

⁵⁴ [HC Hansard, 23 January 2018, cols 161–212](#).

The Shadow Minister for Energy and Climate Change, Alan Whitehead, argued that a transition period was necessary to ensure that the UK would have time to properly implement its own safeguarding regime outside Euratom.⁵⁵ Dr Whitehead stated:

[The] process of recreating in the UK all the things that have been done by Euratom for 40 years [...] will be extremely difficult, lengthy and problematic. It will certainly, in the opinion of many people, be extremely difficult to achieve in the period ahead if we corral those negotiations and are to complete them by March 2019.⁵⁶

New clause 1 was criticised by a number of Conservative MPs, including Trudy Harrison (Conservative MP for Copeland), whose constituency includes the Sellafield nuclear power station. Ms Harrison argued that the amendment was a “delaying tactic” by the Opposition and that it risked creating uncertainty in the industry.⁵⁷ However, the chair of the House of Commons Business, Energy and Industrial Strategy Committee, Rachel Reeves, argued that the amendment would in fact reduce uncertainty, arguing that the ONR would not be in a position to meet Euratom equivalent safeguarding standards by March 2019.⁵⁸

The Parliamentary Under Secretary of State for Business, Energy and Industrial Strategy, Richard Harrington, argued against new clause 1 on the basis that the Prime Minister was already seeking to establish a two-year transition period after the UK’s departure from the EU during which the EU acquis would continue to apply.⁵⁹ He emphasised that, during this period, the current Euratom regime would also apply.

During the debate on new clause 1, MPs discussed what form the UK’s future arrangements with Euratom should take. Albert Owen (Labour MP for Ynys Môn) argued that the UK should seek to negotiate associate membership of Euratom, citing support from the UK nuclear power industry for this goal.⁶⁰ In addition to its existing members, Euratom has an associate agreement with Ukraine regarding nuclear research and development and an agreement with Switzerland.⁶¹ However, Richard Harrington argued that the UK could not negotiate associate membership because, notwithstanding the agreements with Ukraine and Switzerland, there was no existing legal category of ‘associate member’ in the Euratom treaty.⁶²

⁵⁵ [HC Hansard, 23 January 2018, col 165.](#)

⁵⁶ *ibid*, col 166.

⁵⁷ *ibid*, col 168.

⁵⁸ *ibid*, cols 168–9.

⁵⁹ *ibid*, col 190.

⁶⁰ *ibid*, col 169–70.

⁶¹ Department for Business, Energy and Industrial Strategy, [Nuclear Safeguards Bill: Factsheet](#), 31 October 2017, p 3.

⁶² [HC Hansard, 23 January 2018, cols 172 and 188–9.](#)

Following this debate, the House divided. New clause 1 was defeated by 294 votes to 255.⁶³

Purpose Clause

The Opposition again proposed the inclusion of a so-called ‘purpose clause’ to the Bill, which had previously been debated at committee stage. New clause 2 would have specified in the Bill that the purpose of the legislation was to ensure that contingency measures were in place if the UK could not establish an association with Euratom. Alan Whitehead argued that it was important to make this explicit in the Bill because this would indicate to the IAEA that the UK intended to fulfil its nuclear safeguarding obligations regardless of the outcome of the negotiations.⁶⁴

Rachel Maclean (Conservative MP for Redditch) criticised this proposal, arguing that making explicit reference to contingency measures in the Bill would risk creating uncertainty during the UK’s negotiations.⁶⁵ Richard Harrington, in his general comments on the first group of amendments—including new clause 2—argued the Opposition and the Government were essentially in agreement about the nature of the arrangements the UK wished to reach with Euratom.⁶⁶ However, he argued in a similar vein to Rachel Maclean, that the Opposition’s amendments might lead to uncertainty in the negotiations. Following the debate, new clause 2 was withdrawn.

Notification on Progress of Negotiations with Euratom

The Opposition tabled a number of amendments that would have required the Government to publish statements regarding the UK’s future relationship with Euratom:

- New clause 3 would have required the Secretary of State to report to Parliament on efforts to maintain nuclear safeguarding arrangements with Euratom after the UK’s departure.
- Amendments 2 and 3 would have required the Secretary of State to report to Parliament on the failure to reach agreement with Euratom before he or she could use certain powers in the Bill to set up a domestic safeguarding regime.
- Amendment 7 would have required the Secretary of State to lay a report before Parliament outlining his or her strategy for future arrangements for nuclear protection and trading, as well as participation in research and development, outside Euratom.

⁶³ [HC Hansard, 23 January 2018, cols 191–5.](#)

⁶⁴ *ibid*, cols 165–6.

⁶⁵ *ibid*, col 165.

⁶⁶ *ibid*, cols 189–90.

Alan Whitehead argued that these amendments were necessary to ensure Parliament remained informed about the progress of talks between the UK and Euratom member states.⁶⁷ Richard Harrington responded by arguing that the Government had already committed to providing quarterly updates on the progress of negotiations with Euratom.⁶⁸ Following this debate, these amendments were withdrawn.

Second Group of Amendments: Establishing a Domestic Safeguarding Regime

The Opposition tabled two amendments regarding the UK's safeguarding standards outside Euratom and the ability of the ONR to maintain those standards:

- Amendment 1 would have required the UK to maintain the same standards in its domestic safeguarding regime as those in place prior to the UK's departure from Euratom.
- Amendment 4 would have required the Secretary of State to make a statement to Parliament declaring he or she was satisfied that the ONR had adequate resources to take on extra responsibilities for UK nuclear safeguards.

Speaking in support of these amendments, Alan Whitehead argued UK standards risked being lowered outside Euratom because the IAEA's minimum requirements for inspections were less exacting than those of Euratom.⁶⁹ He welcomed the commitment made by the Government that it would seek to implement an inspection regime with standards similar to those of Euratom. However, he warned that there was a risk that strains on ONR resources might prevent this from being possible. Responding on behalf of the Government, Richard Harrington repeated the Government's commitment that the new inspection regime would be "as comprehensive and robust as that currently provided by Euratom".⁷⁰ Mr Harrington also argued that the draft regulations published by the Government indicated its commitment to high inspection standards. Following the debate, the amendment was withdrawn.

Clause 2: Henry VIII Powers

The Opposition repeated its criticism of Henry VIII powers in the Bill during report stage. Alan Whitehead made the following general criticism of the use of Henry VIII powers:

We think that they overturn the sovereignty of Parliament in dealing

⁶⁷ [HC Hansard, 23 January 2018, col 164.](#)

⁶⁸ *ibid*, cols 190–1.

⁶⁹ *ibid*, cols 196–7.

⁷⁰ *ibid*, col 204.

with issues such as these and give the Executive powers that are unwarranted on virtually all occasions. Legislation should be written in that form only in a dire emergency, where a calamity will befall the nation if such action is not taken.⁷¹

Amendment 5 would have limited the powers of the Secretary of State to introduce regulations under clause 2 of the Bill. Dr Whitehead argued that the powers in clause 2 were unwarranted and that the Government wanted to have these powers because this offered it “the easy way out” of the detailed task of aligning existing legislation with the UK’s departure from Euratom.⁷² Richard Harrington defended these powers in the Bill, repeating the Government’s assurance that they were limited in scope and were necessary to enable the UK to establish new arrangements with the IAEA outside Euratom.⁷³ Following this debate, Alan Whitehead pressed amendment 5 to a division. The amendment was defeated by 295 votes to 254.⁷⁴

8. Commons Third Reading

During third reading, the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark, reiterated the Government’s view that the provisions in the Bill were necessary to provide reassurance to the UK nuclear industry after the UK’s departure from Euratom and that it would ensure the UK would be able to maintain its nuclear safeguarding obligations.⁷⁵ He also argued that there was a broad cross-party consensus on the aims of the Bill and it was an important signal to the UK’s international partners that the country would remain “a leading and responsible” nuclear state.

The Shadow Secretary of State for Business, Energy and Industrial Strategy, Rebecca Long Bailey, stated the Opposition continued to support the principle of the Bill and would not seek to oppose third reading.⁷⁶ However, she repeated the Opposition’s concerns regarding the Government’s approach, stating that she had “ongoing concerns” about the potential for a shortfall in the number of inspectors that the ONR would be able to have trained by the time of the UK’s departure from Euratom. She also repeated her concerns about the Henry VIII powers in the Bill.

⁷¹ [HC Hansard, 23 January 2018, col 199.](#)

⁷² *ibid.*

⁷³ *ibid.*, cols 207–8.

⁷⁴ *ibid.*, cols 208–12.

⁷⁵ *ibid.*, cols 214–15.

⁷⁶ *ibid.*, col 215.