



House of Commons

Tuesday 10 July 2012

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

ENTERPRISE AND REGULATORY REFORM BILL

Norman Lamb

That the Order of the Committee of 19 June 2012 be amended as follows:

- (1) in paragraph (1)(i), for “10.30 am and 4.00 pm” substitute “9.00 am and 1.30 pm”;
- (2) in paragraph (4), for “8.00 pm” substitute “5.30 pm”.

Mr Iain Wright
Ian Murray
Chi Onwurah

Schedule 4, page 63, line 26, at end insert—

82

- (i) an assessment of the adequacy of staff skills in relation to the performance of the CMA’s functions;
- (j) an estimate of the resource needed adequately to perform its functions for the two financial years following the year in which the annual report in 14(1) refers.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

Schedule 4, page 63, line 26, at end insert—

84

- (2A) The first annual report of the CMA following Royal Assent must include an assessment of transition costs in both financial and competition terms.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

Schedule 4, page 64, line 27, at end insert—

83

Enterprise and Regulatory Reform Bill, *continued**'Consumer research*

- 16A (1) The CMA must make arrangements for ascertaining—
- (a) the state of public opinion about the manner in which financial services are provided to consumers;
 - (b) the experiences of consumers in relation to the provision of financial services;
 - (c) the experiences of such consumers in relation to the handling, by institutions within the financial services sector, of complaints made to them by such consumers;
 - (d) the experiences of such consumers in relation to the resolution of disputes with institutions within the financial services sector; and
 - (e) the interests and experiences of such consumers in relation to other matters that are incidental to, or are otherwise connected with, their experiences of the provision of financial services or of the availability of associated facilities.
- (2) The CMA shall consult with concurrent regulators where necessary.
- (3) The CMA shall publish the conclusions from research carried out under section (1) every two years.
- (4) The CMA shall produce a report stating its conclusions and any recommendations from section (1) to the Secretary of State every 2 years.
- (5) The Secretary of State shall publish a response to the report within 60 days.
- (6) Arrangements made by the CMA for the purposes of this section may include arrangements for the carrying out of research in one or more of the following ways—
- (a) by members or employees of the CMA;
 - (b) by persons who are neither members nor employees of the CMA.
- (7) This section does not restrict the CMA's power to make any arrangements they consider to be incidental or conducive to the carrying out of any of their functions.
- 16B (1) The CMA must make arrangements for ascertaining—
- (a) the level of competition in the financial services sector; and
 - (b) the effects of the competition environment in the financial services sector on
 - (i) the availability of finance to small and medium-sized enterprises;
 - (ii) the availability of finance to high growth businesses;
 - (iii) the availability of finance to businesses in general.
- (2) The CMA shall consult with concurrent regulators where necessary.
- (3) The CMA shall publish the conclusions from research carried out under section (1) every two years.
- (4) The CMA shall produce a report stating its conclusions and any recommendations from section (1) to the Secretary of State every two years.
- (5) The Secretary of State shall publish a response to the report within 60 days.
- (6) Arrangements made by the CMA for the purposes of this section may include arrangements for the carrying out of research in one or more of the following ways—
- (a) by members or employees of the CMA;
 - (b) by persons who are neither members nor employees of the CMA.

Enterprise and Regulatory Reform Bill, continued

- (7) This section does not restrict the CMA’s power to make any arrangements they consider to be incidental or conducive to the carrying out of any of their functions.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

90

Schedule 4, page 67, line 24, at end insert—

- ‘(2A) No person who participated in the CMA Board’s consideration of whether to refer the matter to the chair shall form part of a group selected by the chair to investigate the matter.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

85

Schedule 4, page 68, line 19, at end insert—

- (f) at least three persons (“specialist consumer competition panel members”) appointed to the CMA panel under paragraph 1(1)(b) for the purpose of being available for selection as members of a group constituted to carry out specialist consumer competition welfare functions on behalf of the CMA;
- (g) at least three persons (“specialist financial competition panel members”) appointed to the CMA panel under paragraph 1(1)(b) for the purpose of being available for selection as members of a group constituted to carry out specialist financial services competition functions on behalf of the CMA.’.

Norman Lamb

21

Schedule 5, page 79, line 39, leave out paragraph 32 and insert—

- ‘32 (1) Section 52 (advice and information) is amended as follows.
- (2) In subsection (1), for the words from the beginning to “the Director” substitute “The CMA”.
- (3) In subsection (1A), for the words from the beginning to “the OFT” substitute “The CMA”.
- (4) In subsections (2) to (6) and (8), for “OFT” (in each place where it occurs) substitute “CMA”.’.

Norman Lamb

22

Schedule 5, page 81, line 29, at end insert—

- ‘ In Schedule 2 (exclusions: other competition scrutiny), in Part 3, in paragraph 5(3)(a), for “Director” substitute “CMA”.’.

Enterprise and Regulatory Reform Bill, *continued*

- Mr Iain Wright
Ian Murray
Chi Onwurah
- 92**
- Schedule 5, page 83, line 28, after ‘subsections’, insert ‘(1A)’.
- Mr Iain Wright
Ian Murray
Chi Onwurah
- 91**
- Schedule 5, page 84, line 14, after ‘subsections’, insert ‘(1A)’.
- Norman Lamb
- 23**
- Schedule 5, page 87, leave out line 28.
- Norman Lamb
- 24**
- Schedule 5, page 89, line 12, at end insert—
‘() after “(6)” insert “—
(a) ”.’.
- Norman Lamb
- 25**
- Schedule 5, page 89, line 13, at end insert ‘, and
() at the end insert “; and
(b) for the purposes of section 34C, the group constituted
in consequence of the reference under section 45 is to
be treated as if it were constituted in consequence of
a reference under section 22 or (as the case may be)
33.”’.
-
- Mr Iain Wright
Ian Murray
Chi Onwurah
- 88**
- Clause 21, page 17, line 38, at end insert—
‘(13) No member involved in the decision making process shall have taken any part in
the phase one investigation.’.
-
- Mr Iain Wright
Ian Murray
Chi Onwurah
- 61**
- Schedule 12, page 188, line 4, at end insert—
‘(d) the resources which will be assigned to the market study.’.

Enterprise and Regulatory Reform Bill, *continued*

Mr Iain Wright Ian Murray Chi Onwurah		62
	Schedule 12, page 188, line 35, leave out '6' and insert '3'.	
Mr Iain Wright Ian Murray Chi Onwurah		65
	Schedule 12, page 188, line 35, leave out '6' and insert '12'.	
Mr Iain Wright Ian Murray Chi Onwurah		63
	Schedule 12, page 189, line 32, leave out '6' and insert '3'.	
Mr Iain Wright Ian Murray Chi Onwurah		66
	Schedule 12, page 189, line 32, leave out '6' and insert '12'.	
Mr Iain Wright Ian Murray Chi Onwurah		64
	Schedule 12, page 189, line 41, leave out '6' and insert '3'.	
Mr Iain Wright Ian Murray Chi Onwurah		67
	Schedule 12, page 189, line 41, leave out '6' and insert '12'.	
Norman Lamb		26
	Schedule 12, page 193, line 15, after 'if', insert 'the CMA has accepted an undertaking or group of undertakings under section 154 and'.	
Norman Lamb		27
	Schedule 12, page 193, line 33, at end insert— (i) In subsection (1), after paragraph (a) insert— “(aa) any decision not to make a reference under section 131 following a consultation in relation to the matter concerned under section 169;”.	
Norman Lamb		28
	Schedule 12, page 194, line 3, at end insert—	

Enterprise and Regulatory Reform Bill, *continued*

In section 179 (review of decisions under Part 4), in subsection (2), before paragraph (a) insert—

“(za) does not include a decision whether to carry out functions under section 5 in a case where the CMA is, or would have been, required to publish a market study notice (see section 130A(1));”.

Mr Iain Wright
Ian Murray
Chi Onwurah

Schedule 11, page 183, leave out lines 18 to 21.

86

Norman Lamb

Schedule 11, page 184, line 42, after ‘140A(2)’, insert ‘(b)’.

29

Norman Lamb

Schedule 11, page 184, line 46, after ‘140A(2)’, insert ‘(b)’.

30

Mr Iain Wright
Ian Murray
Chi Onwurah

Schedule 11, page 186, line 12, leave out from ‘exceeding’ to end of line 17 and insert—

87

‘10 per cent. of the company’s revenues for the previous year, or £30,000 whichever is the higher;

- (b) in the case of any amount calculated by reference to a daily rate, an amount per day exceeding 10 per cent. of the company’s revenues for the previous year, or £15,000 whichever is the higher; and
- (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 or 10 per cent. of the company’s revenues for the previous year whichever is the higher, and an amount per day exceeding £15,000 or 10 per cent. of the company’s revenues for the previous year whichever is the higher.’.

Norman Lamb

Clause 27, page 21, line 24, after ‘where’, insert ‘—
(a) ’.

31

Norman Lamb

Clause 27, page 21, line 25, at end insert ‘; or

32

Enterprise and Regulatory Reform Bill, *continued*

- (b) the CMA has begun the process of consultation under section 169 in respect of a decision of the kind mentioned in subsection (6)(a)(i) of that section.’.

Norman Lamb

33

Clause 27, page 21, line 30, after ‘permitted period’, insert ‘, in a case to which this section applies by virtue of paragraph (a) of subsection (A1),’.

Norman Lamb

34

Clause 27, page 21, line 42, after ‘period.’ insert—

‘(1B) For the purposes of subsection (1), the permitted period, in a case to which this section applies by virtue of paragraph (b) of subsection (A1), is the period beginning with the date on which the CMA begins the process of consultation concerned and ending with—

- (a) the acceptance by the CMA of an undertaking under section 154 instead of the making of a reference under section 131 in relation to the matter concerned;
- (b) the publication of notice of the fact that the CMA has otherwise decided not to make such a reference in relation to the matter; or
- (c) the making of such a reference in relation to the matter.’.

Norman Lamb

35

Clause 27, page 22, line 28, leave out ‘In subsection (1A)(a), the’ and insert ‘In this section, a’.

Norman Lamb

36

Clause 27, page 22, line 33, leave out ‘subsection (1A)(a)’ and insert ‘this section’.

Norman Lamb

37

Clause 27, page 22, line 44, at end insert—

‘(1A) This section also applies where—

- (a) the CMA has conducted a consultation under section 169 in respect of a decision of the kind mentioned in subsection (6)(a)(i) of that section;
- (b) the CMA has decided that it should make an ordinary reference or a cross-market reference in relation to the matter concerned under section 131; and
- (c) an intervention notice under section 139(1) is in force in relation to the matter at the time when the CMA makes that decision.’.

Norman Lamb

38

Clause 27, page 23, leave out lines 3 to 6 and insert—

- ‘(b) in a case falling within subsection (1), shall not publish the market study report under section 131B(4) and shall instead, within the period mentioned in section 131B(4), give the report to the Secretary of State; and
- (c) in a case falling within subsection (1A), shall give to the Secretary of State a document containing—

Enterprise and Regulatory Reform Bill, *continued*

- (i) its decision and the reasons for its decision; and
- (ii) such information as the CMA considers appropriate for facilitating a proper understanding of the reasons for its decision.’.

Norman Lamb **39**
 Clause 27, page 23, line 13, leave out ‘contained in the market study report concerned’.

Norman Lamb **40**
 Clause 27, page 23, line 20, leave out ‘section 131B’ and insert ‘this Part’.

Norman Lamb **41**
 Clause 27, page 23, line 23, leave out ‘contained in the market study report’.

Norman Lamb **42**
 Clause 27, page 23, line 37, leave out ‘market study report concerned contains the decision of the CMA’ and insert ‘decision of the CMA was’.

Norman Lamb **43**
 Clause 27, page 23, line 40, leave out ‘report contains the decision of the CMA’ and insert ‘decision of the CMA was’.

Norman Lamb **44**
 Clause 27, page 23, line 43, at beginning insert ‘In a case falling within subsection (1),’.

Norman Lamb **45**
 Clause 27, page 23, line 45, at end insert—
 ‘() In a case falling within subsection (1A), the Secretary of State shall publish the document given to the Secretary of State by the CMA under subsection (2)(c), at the same time as the Secretary of State makes a reference under this section.’.

Norman Lamb **46**
 Schedule 10, page 172, line 8, after ‘notice’, insert ‘or (as the case may be) the consultation under section 169’.

Norman Lamb **47**
 Schedule 10, page 172, line 10, after ‘notice’, insert ‘or (as the case may be) on which the process of consultation began’.

Enterprise and Regulatory Reform Bill, *continued*

- Norman Lamb 48
 Schedule 10, page 172, line 38, after 140A(2) insert '(b)'.
- Norman Lamb 49
 Schedule 10, page 172, line 41, at end insert—
 '(4BA) Subsection (4C) also applies in a case where—
 (a) an intervention notice ceases to be in force in accordance with subsection (4A); and
 (b) the CMA has, before the time at which the notice ceases to be in force—
 (i) decided that it should make an ordinary reference or a cross-market reference under section 131 in relation to the matter concerned; and
 (ii) given a document containing its decision, the reasons for it and such information as the CMA considers appropriate for facilitating a proper understanding of the reasons for its decision to the Secretary of State in accordance with section 140A(2)(c).'
- Norman Lamb 50
 Schedule 10, page 172, line 47, leave out 'section 131B' and insert 'this Part'.
- Norman Lamb 51
 Schedule 10, page 178, line 22, leave out 'section 131B' and insert 'this Part'.
- Norman Lamb 52
 Schedule 10, page 179, line 33, leave out 'section 131B' and insert 'this Part'.
- Norman Lamb 53
 Schedule 10, page 179, line 38, leave out 'section 131B' and insert 'this Part'.
- Norman Lamb 54
 Schedule 10, page 181, line 9, at end insert—
 '() In subsection (7), omit "or (2)(d)".'
-
- Mr Iain Wright
 Ian Murray
 Chi Onwurah 57
 Clause 29, page 28, line 11, at end insert—

Enterprise and Regulatory Reform Bill, *continued*

‘(2BA) When subsection (2B) is applied, the relevant authority must publish a cost benefit assessment for the measures applied.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

58

Clause 34, page 32, line 45, at end insert—

‘(5A) After sub-paragraph 2(4) insert—

“(5) No member involved in the decision making process shall have taken any part in the investigation.”.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

89

Clause 39, page 35, line 6, at end insert—

‘(2A) In subsection (1), after “at least two undertakings (A and B)”, insert—
“with the intention of substantially reducing competition.”.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

59

Clause 39, page 35, line 35, at end insert—

‘(2A) All “relevant information” must be made available on the undertakings website under the title “commercial arrangements”.’.

Norman Lamb

55

Schedule 15, page 203, line 29, leave out paragraph (a) and insert—

‘(a) omit “to the Competition Commission” (in each place where it occurs), and’.

Mr Iain Wright
Ian Murray
Chi Onwurah

60

Clause 48, page 41, line 16, at end add—

Enterprise and Regulatory Reform Bill, *continued*

“consumers” includes small businesses, up to 50 employees in size.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

93

★ Clause 49, page 41, line 35, at end insert—

- ‘(2A) Prior to the subordinate legislation coming into force, the review of the effectiveness of the legislation as set out in 14A(2)(a) will receive the views of businesses, business organisations, civic organisations and trade unions, and any such organisations which the person considers appropriate.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

94

★ Clause 49, page 42, line 10, at end insert—

- ‘(7) Subordinate legislation identified as having ceased to have effect in 14A(2)(b) will cease to exist only on one of two prescribed dates.
- (8) The dates as set out in 14A(7) will be 6 April and 1 October (known as the Common Commencement Date).
- (9) The Secretary of State must publish a Statement of new Regulations at least three months before new regulations come into force.
- (10) The Statement of New Regulations must include—
- (a) new regulations which will come into force at the next Common Commencement Date;
- (b) regulations that cease to have effect in subsection 14A(2)(b).’.
-

Mr Iain Wright
Ian Murray
Chi Onwurah

95

★ Clause 52, page 44, line 2, at end insert—

- ‘(5) The Secretary of State, in publishing guidance as set out in subsection (3) must take steps to obtain and to take into account the views of small, medium and large sized businesses, local authorities and business organisations prior to the issuing of such guidance.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

96

★ Clause 52, page 44, line 10, at end insert—

- ‘(8) The Secretary of State, within 12 months of this part of the Act coming into operation, will prepare and publish in both Houses of Parliament a report detailing how the implementation of Section 52 of the Act has been affected by

Enterprise and Regulatory Reform Bill, *continued*

resources provided to local authorities' Trading Standards and Citizens Advice Bureaux.'.

Mr Iain Wright
Ian Murray
Chi Onwurah

99

★ Clause 56, page 46, leave out lines 3 to 16 and insert—

'28ZA Criminal penalties

Paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 (limitation on criminal penalties) does not apply for the purposes of provision under section 2(2) of that Act implementing acts which may be done in relation to copyright works notwithstanding the subsistence of copyright.'.

Mr Iain Wright
Ian Murray
Chi Onwurah

97

★ Clause 56, page 46, leave out lines 5 and 6 and insert 'provide that any act which may be done under this Chapter notwithstanding the subsistence of copyright is pursuant to such regulations no longer permitted without regard to the subsistence of copyright.'.

Mr Iain Wright
Ian Murray
Chi Onwurah

98

★ Clause 56, page 46, line 6, at end insert—
(1A) The power to make regulations under this section is exercisable only in making provision for the purposes mentioned in section 2(2)(a) and (b) of the European Communities Act 1972.'.

Norman Lamb

56

Page 46, line 34, leave out Clause 57.

Caroline Lucas

1

Clause 62, page 49, line 5, at end add—

Enterprise and Regulatory Reform Bill, continued

- (5) Section [*Permission to borrow from the capital markets*] comes into force on the day on which this Act is passed.’.

NEW CLAUSES

Confidentiality of negotiations before termination of employment

Norman Lamb

NC2

To move the following Clause:—

‘After section 111 of the Employment Rights Act 1996 insert—

“111A Confidentiality of negotiations before termination of employment

- 5 (1) In determining any matter arising on a complaint under section 111, an employment tribunal may not take account of any offer made or discussions held, before the termination of the employment in question, with a view to it being terminated on terms agreed between the employer and the employee.
This is subject to the following provisions of this section.
- 10 (2) Subsection (1) does not apply where, according to the complainant’s case, the circumstances are such that a provision (whenever made) contained in, or made under, this or any other Act requires the complainant to be regarded for the purposes of this Part as unfairly dismissed.
- 15 (3) In relation to anything said or done which in the tribunal’s opinion was improper, or was connected with improper behaviour, subsection (1) applies only to the extent that the tribunal considers just.
- 20 (4) The reference in subsection (1) to a matter arising on a complaint under section 111 includes any question as to costs, except in relation to an offer made on the basis that the right to refer to it on any such question is reserved.
- (5) Subsection (1) does not prevent the tribunal from taking account of a determination made in any other proceedings between the employer and the employee in which account was taken of an offer or discussions of the kind mentioned in that subsection.”’.

As Amendments to Norman Lamb’s proposed New Clause (*Confidentiality of negotiations before termination of employment*) (NC2):—

Mr Iain Wright
Ian Murray
Chi Onwurah

(a)
Line 7, leave out ‘the employee’ and insert ‘, the employee or either one of the following chosen employee representatives—

- (a) a trade union official;

Enterprise and Regulatory Reform Bill, continued

- (b) a workplace representative; or
- (c) a legal representative.’.

Mr Iain Wright
 Ian Murray
 Chi Onwurah

(b)

Line 24, at end add—

- ‘(6) The Secretary of State shall review the operation of Clause 111A [Confidentiality of negotiations before termination of employment] after 12 months and shall confirm its continuation through an affirmative resolution of both Houses of Parliament.’.

Payments to directors: members’ approval of directors’ remuneration policy

Norman Lamb

NC5

To move the following Clause:—

- ‘(1) In section 421 of the Companies Act 2006 (contents of directors’ remuneration report) after subsection (2) insert—
 - “(2A) The regulations must provide that any information required to be included in the report as to the policy of the company with respect to the making of remuneration payments and payments for loss of office (within the meaning of Chapter 4A of Part 10) is to be set out in a separate part of the report.”
- (2) After section 422 of that Act (approval and signing of directors’ remuneration report) insert—

“422A Revisions to directors’ remuneration policy

- (1) The directors’ remuneration policy contained in a company’s directors’ remuneration report may be revised.
- (2) Any such revision must be approved by the board of directors.
- (3) The policy as so revised must be set out in a document signed on behalf of the board by a director or the secretary of the company.
- (4) Regulations under section 421(1) may make provision as to—
 - (a) the information that must be contained in a document setting out a revised directors’ remuneration policy, and
 - (b) how information is to be set out in the document.
- (5) Sections 422(2) and (3), 454, 456 and 463 apply in relation to such a document as they apply in relation to a directors’ remuneration report.
- (6) In this section, “directors’ remuneration policy” means the policy of a company with respect to the matters mentioned in section 421(2A).”
- (3) In section 439 of that Act (quoted companies: members’ approval of directors’ remuneration report), in subsection (1), at the end insert “other than the part containing the directors’ remuneration policy (as to which see section 439A).”.

Enterprise and Regulatory Reform Bill, *continued*

(4) After that section insert—

“439A Quoted companies: members’ approval of directors’ remuneration policy

- (1) A quoted company must give notice of the intention to move, as an ordinary resolution, a resolution approving the relevant directors’ remuneration policy—
 - (a) at the accounts meeting held in the first financial year which begins after the coming into force of section (*Payments to directors: members’ approval of directors’ remuneration policy*) of the Enterprise and Regulatory Reform Act 2012 or at an earlier general meeting, and
 - (b) at an accounts or other general meeting held no later than the end of the period of three financial years beginning with the first financial year after the last accounts or other general meeting in relation to which notice is given under this subsection.
- (2) A quoted company must give notice of the intention to move at an accounts meeting, as an ordinary resolution, a resolution approving the relevant directors’ remuneration policy if—
 - (a) a resolution required to be put to the vote under section 439 was not passed at the last accounts meeting of the company, and
 - (b) no notice under this section was given in relation to that meeting or any other general meeting held before the next accounts meeting.
- (3) A notice given under subsection (2) is to be treated as given under subsection (1) for the purpose of determining the period within which the next notice under subsection (1) must be given.
- (4) Notice of the intention to move a resolution to which this section applies must be given, prior to the meeting in question, to the members of the company entitled to be sent notice of the meeting.
- (5) Subsections (2) to (4) of section 439 apply for the purposes of a resolution to which this section applies as they apply for the purposes of a resolution to which section 439 applies, with the modification that, for the purposes of a resolution relating to a general meeting other than an accounts meeting, subsection (3) applies as if for “accounts meeting” there were substituted “general meeting”.
- (6) For the purposes of this section, the relevant directors’ remuneration policy is—
 - (a) in a case where notice is given in relation to an accounts meeting, the remuneration policy contained in the directors’ remuneration report in respect of which a resolution under section 439 is required to be put to the vote at that accounts meeting;
 - (b) in a case where notice is given in relation to a general meeting other than an accounts meeting—
 - (i) the remuneration policy contained in the directors’ remuneration report in respect of which such a resolution was required to be put to the vote at the last accounts meeting to be held before that other general meeting, or
 - (ii) where that policy has been revised in accordance with section 422A, the policy as so revised.

Enterprise and Regulatory Reform Bill, *continued*

- (7) In this section—
- (a) “accounts meeting” means a general meeting of the company before which the company’s annual accounts for a financial year are to be laid;
 - (b) “directors’ remuneration policy” means the policy of the company with respect to the matters mentioned in section 421(2A).”.

Payments to directors of quoted companies

Norman Lamb

NC6

To move the following Clause:—

‘After section 226 of the Companies Act 2006 insert—

“CHAPTER 4A

DIRECTORS OF QUOTED COMPANIES: SPECIAL PROVISION

*Interpretation***226A Key definitions**

- (1) In this Chapter—
- “directors’ remuneration policy” means the policy of a quoted company with respect to the making of remuneration payments and payments for loss of office;
 - “remuneration payment” means any form of payment or other benefit made to or otherwise conferred on a person as consideration for the person being, or agreeing to become, a director of a company, other than a payment for loss of office;
 - “payment for loss of office” has the same meaning as in Chapter 4 of this Part.
- (2) Subsection (3) applies where, in connection with a relevant transfer, a director of a quoted company is—
- (a) to cease to hold office as director, or
 - (b) to cease to be the holder of—
 - (i) any other office or employment in connection with the management of the affairs of the company, or
 - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.
- (3) If in connection with the transfer—
- (a) the price to be paid to the director for any shares in the company held by the director is in excess of the price which could at the time have been obtained by other holders of like shares, or
 - (b) any valuable consideration is given to the director by a person other than the company,

Enterprise and Regulatory Reform Bill, *continued*

the excess or, as the case may be, the money value of the consideration is taken for the purposes of section 226C to have been a payment for loss of office.

- (4) In subsection (2), “relevant transfer” means—
 - (a) a transfer of the whole or any part of the undertaking or property of the company or a subsidiary of the company;
 - (b) a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid.
- (5) References in this Chapter to the making of a remuneration payment or to the making of a payment for loss of office are to be read in accordance with this section.
- (6) References in this Chapter to a payment by a company include a payment by another person at the direction of, or on behalf of, the company.
- (7) References in this Chapter to a payment to a person (“B”) who is, has been or is to be a director of a company include—
 - (a) a payment to a person connected with B, or
 - (b) a payment to a person at the direction of, or for the benefit of, B or a person connected with B.
- (8) Section 252 applies for the purposes of determining whether a person is connected with a person who has been, or is to be, a director of a company as it applies for the purposes of determining whether a person is connected with a director.
- (9) References in this Chapter to a director include a shadow director but references to loss of office as a director do not include loss of a person’s status as a shadow director.

Restrictions relating to remuneration or loss of office payments

226B Remuneration payments

- (1) A quoted company may not make a remuneration payment to a person who is, or is to be, a director of the company unless—
 - (a) the payment is consistent with the approved directors’ remuneration policy, or
 - (b) the payment is approved by resolution of the members of the company.
- (2) The approved directors’ remuneration policy is the most recent remuneration policy to have been approved by a resolution passed by the members of the company in general meeting.

226C Loss of office payments

- (1) No payment for loss of office may be made by any person to a person who is, or has been, a director of a quoted company unless—
 - (a) the payment is consistent with the approved directors’ remuneration policy, or
 - (b) the payment is approved by resolution of the members of the company.

Enterprise and Regulatory Reform Bill, *continued*

- (2) The approved directors' remuneration policy is the most recent remuneration policy to have been approved by a resolution passed by the members of the company in general meeting.

226D Sections 226B and 226C: supplementary

- (1) A resolution approving a payment for the purposes of section 226B(1)(b) or 226C(1)(b) must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available for inspection by the members of the company—
 - (a) at the company's registered office for not less than 15 days ending with the date of the meeting at which the resolution is to be considered, and
 - (b) at that meeting itself.
- (2) The memorandum must explain the ways in which the payment is inconsistent with the approved directors' remuneration policy (within the meaning of the section in question).
- (3) The company must ensure that the memorandum is made available on the company's website from the first day on which the memorandum is made available for inspection under subsection (1) until its next accounts meeting.
- (4) Failure to comply with subsection (3) does not affect the validity of the meeting at which a resolution is passed approving a payment to which the memorandum relates or the validity of anything done at the meeting.
- (5) Nothing in section 226B or 226C authorises the making of a remuneration payment or payment for loss of office in contravention of the articles of the company concerned.
- (6) In this section the "company's website" is the website on which the company makes material available under section 430.

226E Payments made without approval: civil consequences

- (1) An obligation (however arising) to make a payment which would be in contravention of section 226B or 226C has no effect.
- (2) Subject to subsections (3) and (4), if a payment is made in contravention of section 226B or 226C—
 - (a) it is held by the recipient on trust for the company or other person making the payment, and
 - (b) in the case of a payment by a company, any director who authorised the payment is jointly and severally liable to indemnify the company that made the payment for any loss resulting from it.
- (3) If a payment for loss of office is made in contravention of section 226C to a director of a quoted company in connection with the transfer of the whole or any part of the undertaking or property of the company or a subsidiary of the company, it is held by the recipient on trust for the company whose undertaking or property is or is proposed to be transferred.
- (4) If a payment for loss of office is made in contravention of section 226C to a director of a quoted company in connection with a transfer of shares

Enterprise and Regulatory Reform Bill, *continued*

in the company, or in a subsidiary of the company, resulting from a takeover bid—

- (a) it is held by the recipient on trust for persons who have sold their shares as a result of the offer made, and
- (b) the expenses incurred by the recipient in distributing that sum amongst those persons shall be borne by the recipient and not retained out of that sum.

226F Relationship with requirements under Chapter 4

- (1) This Chapter does not affect any requirement for approval by a resolution of the members of a company which applies in relation to the company under Chapter 4.
- (2) Where the making of a payment to which section 226B or 226C applies requires approval by a resolution of the members of the company concerned under Chapter 4, approval obtained for the purposes of that Chapter is to be treated as satisfying the requirements of section 226B(1)(b) or (as the case may be) 226C(1)(b).’.

Payments to directors: minor and consequential amendments

Norman Lamb

NC7

To move the following Clause:—

- (1) The Companies Act 2006 is amended as follows.
- (2) In section 180 (consent, approval or authorisation by members)—
 - (a) in subsection (2), in the words before paragraph (a)—
 - (i) after “Chapter 4” insert “or 4A”, and
 - (ii) for “that Chapter” substitute “either of those Chapters”,
 - (b) in that subsection, in paragraph (a), for “that Chapter” substitute “the Chapter concerned”, and
 - (c) in subsection (3), after “Chapter 4” insert “or 4A”.
- (3) In section 190 (substantial property transactions: requirement of members’ approval), in subsection (6)(b), for the words in brackets substitute “(payments to which the requirements of Chapter 4 or 4A apply)”.
- (4) In section 215 (payments for loss of office), after subsection (4) insert—
 - “(5) Nothing in this section or sections 216 to 222 applies in relation to a payment for loss of office to a director of a quoted company.”
- (5) Section 430 (quoted companies: annual accounts and reports to be made available on website) is amended as follows.
- (6) After subsection (2) insert—
 - “(2A) If the directors’ remuneration policy of a quoted company is revised in accordance with section 422A, the company must ensure that the revised policy is made available on the website on which its annual accounts and reports are made available.

Enterprise and Regulatory Reform Bill, *continued*

- (2B) If a person ceases to be a director of a quoted company, the company must ensure that the following information is made available on the website on which its annual accounts and reports are made available—
- (a) the name of the person concerned, and
 - (b) particulars of any payment for loss of office (within the meaning of Chapter 4A of Part 10) made to the person, including its amount and how it was calculated.”
- (7) In subsection (3) —
- (a) for “the annual accounts and reports on the website” substitute “the material made available on the website under subsections (1) to (2B)”, and
 - (b) for “the annual accounts and reports from” substitute “such material from”.
- (8) After subsection (4) insert—
- “(4A) Where subsection (2A) or (2B) applies, the material in question—
- (a) must be made available as soon as reasonably practicable, and
 - (b) must be kept available until the next directors’ remuneration report of the company is made available on the website.”
- (9) In subsection (5)—
- (a) in the words before paragraph (a), for the words from “the annual accounts and reports” to “that period” substitute “material available on a website throughout the period mentioned in subsection (4) or (as the case may be) (4A)”, and
 - (b) in paragraph (a) for “the annual accounts and reports are” substitute “the material is”.
- (10) In section 440 (quoted companies: offences in connection with procedure for approval)—
- (a) in subsection (1) —
 - (i) after “section 439(1)” insert “or 439A(1) or (2)”, and
 - (ii) in the words in brackets, after “report” insert “or policy”,
 - (b) in subsection (2), for “the accounts meeting” substitute “the meeting to which it relates”, and
 - (c) in subsection (5), omit the definition of “the accounts meeting”.
- (11) In Schedule 8 (in the index of defined expressions), at the appropriate places insert—

“directors’ remuneration policy (in Chapter 4A of Part 10)	section 226A(1)”
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“payment for loss of office (in Chapter 4A of Part 10)	section 226A(1)”
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 Enterprise and Regulatory Reform Bill, *continued*

“remuneration payment (in Chapter 4A of Part 10)		section 226A(1)”.’.
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Directors’ remuneration reports and payments to directors: transitional provision

Norman Lamb

NC8

To move the following Clause:—

- ‘(1) Subsection (2) of section 439A of the Companies Act 2006 (as inserted by section (*Payments to directors: members’ approval of directors’ remuneration policy*)(4) of this Act) does not apply in relation to a company prior to the holding of the meeting mentioned in subsection (1)(a) of that section of that Act of 2006.
- (2) Chapter 4A of Part 10 of the Companies Act 2006 (as inserted by section (*Payments to directors of quoted companies*)) does not apply in relation to remuneration payments or payments for loss of office made by a company before the earlier of—
 - (a) the end of the first financial year of the company to begin after the coming into force of that section of this Act, and
 - (b) the date from which the first directors’ remuneration policy to be approved under section 439A of the Companies Act 2006 (as inserted by section (*Payments to directors: members’ approval of directors’ remuneration policy*)(4) of this Act) takes effect.
- (3) Chapter 4A of Part 10 of the Companies Act 2006 does not apply in relation to remuneration payments or payments for loss of office that are required to be made under an agreement entered into before 27 June 2012 or in consequence of any other obligation arising before that date.
- (4) An agreement entered into, or any other obligation arising, before 27 June 2012 that is modified or renewed on or after that date is to be treated for the purposes of subsection (3) as having been entered into or (as the case may be) as having arisen on the date on which it was modified or renewed.
- (5) The amendment made by section (*Payments to directors: minor and consequential amendments*)(4) does not apply in relation to a payment for loss of office to which subsection (2) or (3) of this section applies.’.

Power to reduce duration of copyright in transitional cases

Norman Lamb

NC11

To move the following Clause:—

- ‘(1) Section 170 of the Copyright, Designs and Patents Act 1988 (transitional provisions and savings) is amended as follows.
- (2) At the beginning insert “(1)”.

Enterprise and Regulatory Reform Bill, *continued*

- (3) At the end insert—
- “(2) The Secretary of State may by regulations amend Schedule 1 to reduce the duration of copyright in existing works which are—
- (a) unpublished, or
- (b) published but anonymous or pseudonymous.
- (3) The regulations may provide for the copyright to expire on the commencement of the regulations or at any later time.
- (4) “Existing works” has the same meaning as in Schedule 1.
- (5) Regulations under subsection (2) may—
- (a) make supplementary or transitional provision;
- (b) make consequential provision, including provision amending any enactment or subordinate legislation passed or made before that subsection comes into force.
- (6) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (7) A statutory instrument containing regulations under subsection (2) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.” ’.

Penalties under provision implementing Directive on term of protection

Norman Lamb

NC12

To move the following Clause:—

‘Paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 (limitation on criminal penalties) does not apply for the purposes of provision under section 2(2) of that Act implementing Directive 2011/77/EU amending Directive 2006/116/EC on the term of protection of copyright and certain related rights.’.

Licensing of copyright and performers’ rights

Norman Lamb

NC13

To move the following Clause:—

- ‘(1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In section 116 (licensing schemes and licensing bodies) after subsection (4) insert—
- “(5) Schedule A1 confers powers to provide for the regulation of licensing bodies.”

Enterprise and Regulatory Reform Bill, *continued*

- (3) After section 116 insert—

“Orphan works licensing and extended collective licensing

116A Power to provide for licensing of orphan works

- (1) The Secretary of State may by regulations provide for the grant of licences in respect of works that qualify as orphan works under the regulations.
- (2) The regulations may—
 - (a) specify a person or a description of persons authorised to grant licences, or
 - (b) provide for a person designated in the regulations to specify a person or a description of persons authorised to grant licences
- (3) The regulations must provide that, for a work to qualify as an orphan work, it is a requirement that the owner of copyright in it has not been found after a diligent search made in accordance with the regulations.
- (4) The regulations may provide for the granting of licences to do, or authorise the doing of, any act restricted by copyright that would otherwise require the consent of the missing owner.
- (5) The regulations must provide for any licence—
 - (a) to have effect as if granted by the missing owner;
 - (b) not to give exclusive rights;
 - (c) not to be granted to a person authorised to grant licences.
- (6) The regulations may apply to a work although it is not known whether copyright subsists in it, and references to a missing owner and a right or interest of a missing owner are to be read as including references to a supposed owner and a supposed right or interest.

116B Extended collective licensing

- (1) The Secretary of State may by regulations provide for a licensing body that applies to the Secretary of State under the regulations to be authorised to grant copyright licences in respect of works in which copyright is not owned by the body or a person on whose behalf the body acts.
- (2) An authorisation must specify—
 - (a) the types of work to which it applies, and
 - (b) the acts restricted by copyright that the licensing body is authorised to license.
- (3) The regulations must provide for the copyright owner to have a right to limit or exclude the grant of licences by virtue of the regulations.
- (4) The regulations must provide for any licence not to give exclusive rights.
- (5) In this section “copyright licences” has the same meaning as in section 116.
- (6) Nothing in this section applies in relation to Crown copyright or Parliamentary copyright.

Enterprise and Regulatory Reform Bill, *continued***116C General provision about licensing under sections 116A and 116B**

- (1) This section and section 116D apply to regulations under sections 116A and 116B.
- (2) The regulations may provide for a body to be or remain authorised to grant licences only if specified requirements are met, and for a question whether they are met to be determined by a person, and in a manner, specified in the regulations.
- (3) The regulations may specify other matters to be taken into account in any decision to be made under the regulations as to whether to authorise a person to grant licences.
- (4) The regulations must provide for the treatment of any royalties or other sums paid in respect of a licence, including—
 - (a) the deduction of administrative costs;
 - (b) the period for which sums must be held;
 - (c) the treatment of sums after that period (as *bona vacantia* or otherwise).
- (5) The regulations must provide for circumstances in which an authorisation to grant licences may be withdrawn, and for determining the rights and obligations of any person if an authorisation is withdrawn.
- (6) The regulations may include other provision for the purposes of authorisation and licensing, including in particular provision—
 - (a) for determining the rights and obligations of any person if a work ceases to qualify as an orphan work (or ceases to qualify by reference to any copyright owner), or if a rights owner exercises the right referred to in section 116B(3), while a licence is in force;
 - (b) about maintenance of registers and access to them;
 - (c) permitting the use of a work for incidental purposes including an application or search;
 - (d) for a right conferred by section 77 to be treated as having been asserted in accordance with section 78;
 - (e) for the payment of fees to cover administrative expenses.

116D Regulations under sections 116A and 116B

- (1) The power to make regulations includes power—
 - (a) to make incidental, supplementary or consequential provision, including provision extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it;
 - (b) to make transitional, transitory or saving provision;
 - (c) to make different provision for different purposes.
- (2) Regulations under any provision may amend this Part, or any other enactment or subordinate legislation passed or made before that provision comes into force, for the purpose of making consequential provision or extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it.
- (3) Regulations may make provision by reference to guidance issued from time to time by any person.
- (4) The power to make regulations is exercisable by statutory instrument.

Enterprise and Regulatory Reform Bill, *continued*

- (5) A statutory instrument containing regulations that amend an enactment may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) Schedule [*Licensing of copyright and performers’ rights*] (which inserts Schedule A1 to the Copyright, Designs and Patents Act 1988 and makes provision in relation to performers’ rights corresponding to provision made by this section in relation to copyright) has effect.’.

Permission to borrow from the capital markets

Caroline Lucas

NC1

To move the following Clause:—

- ‘(1) The Green Investment Bank may borrow funds on the capital markets.
- (2) There shall be a duty on HM Treasury to provide such assistance and take such steps as required to allow the Green Investment Bank to carry out functions under subsection (1).’.

*General disclosure requirements*Mr Iain Wright
Ian Murray
Chi Onwurah

NC4

To move the following Clause:—

‘The Freedom of Information Act 2000 (c.36) is amended as follows—
In Part VI of Schedule 1, after the words “The Great Britain China Centre”,
insert—
“The UK Green Investment Bank”.’.

*Small business super complainants*Mr Iain Wright
Ian Murray
Chi Onwurah

NC9

To move the following Clause:—

- ‘(1) Section 183 of the 2002 Act is amended as follows:

Enterprise and Regulatory Reform Bill, *continued*

- (2) For subsection (1)(b), after “him”, insert “except for any business with fewer than 50 employees or a number to be set out in an order by the Secretary of State.”.

Mergers: duty to take account of longer-term competitiveness in considering whether to make references

Mr Iain Wright
Ian Murray
Chi Onwurah

NC10

To move the following Clause:—

- (1) Section 33 of the Enterprise Act 2002 is amended as follows.
- (2) After subsection (1) insert—
- “(1A) When considering whether or not a situation results in a substantial lessening of competition for the purposes of (1) above, the CMA shall take into account the longer-term ability of the merged entity to compete effectively.”.
- (3) Section 22 of the Enterprise Act 2002 is amended as follows.
- (4) After subsection (1) insert—
- “(1A) When considering whether or not a situation results in a substantial lessening of competition for the purposes of (1) above, the CMA shall take into account the longer-term ability of the merged entity to compete effectively.”.

Commission for Equality and Human Rights—Independence from Government

Mr Iain Wright
Ian Murray
Chi Onwurah

NC14

★ To move the following Clause:—

‘Schedule [Commission for Equality and Human Rights—Independence from Government] has effect.’.

Sharing and viewing on the internet

Fiona O’Donnell

NC15

★ To move the following Clause:—

Enterprise and Regulatory Reform Bill, *continued*

- (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In Part 1 (copyright) after section 30 (in the general provisions) insert the following new section—

“30A Sharing and viewing on the internet

Where work is made available to the public at a particular web address with the permission of the owner of the copyright in that work, copyright shall not be infringed by—

- (a) any circulation of that web address, or of its title, or of another web address that redirects to that web address;
- (b) the downloading of any data required to display that work at that address, and any subsequent processing of that data, including processing for display, provided that it does not result in any publication elsewhere of the work or an adaptation of the work.”’.

Material available to the public under freedom of information

Fiona O’Donnell

NC16

★ To move the following Clause:—

- (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In Part 1 (copyright) after section 47 (in the provisions relating to public administration) insert the following new section—

“47A Material available to the public under freedom of information

- (1) Where material has been communicated to the public, pursuant to a freedom of information provision, any copyright in the material as a literary work is not infringed by the copying of so much of the material as contains factual information of any description for a purpose which does not involve the issuing of copies to the public.
- (2) Where material has been communicated to the public, pursuant to a freedom of information provision, copyright is not infringed by the copying or communicating to the public of the material, for the purpose of enabling the material to be inspected at a more convenient time or place or otherwise facilitating the exercise of the right conferred by section 1 of that Act.
- (3) Where material which has been communicated to the public, pursuant to a freedom of information provision, contains information about matters of general scientific, technical, commercial or economic interest, copyright is not infringed by the copying or issuing to the public of copies of the material, for the purpose of disseminating that information.
- (4) The Secretary of State may by order provide that subsection (1), (2) or (3) shall, in such cases as may be specified in the order, apply only to copies marked in such manner as may be so specified.
- (5) In this section, “freedom of information provision” means—

Enterprise and Regulatory Reform Bill, *continued*

- (a) section 1 of the Freedom of Information Act 2000;
 - (b) section 1 of the Freedom of Information (Scotland) Act 2000; and
 - (c) regulation 5 of the Environmental Information Regulations 2004.
- (6) The Secretary of State may by order add further provisions to subsection (5) above.
- (7) An Order under this section shall be made by Statutory Instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”’.

NEW SCHEDULES

Norman Lamb

NS1

To move the following Schedule:—

‘LICENSING OF COPYRIGHT AND PERFORMERS’ RIGHTS

PART 1

REGULATION OF LICENSING BODIES

- 1 In the Copyright, Designs and Patents Act 1988, before Schedule 1 insert—

“SCHEDULE A1

REGULATION OF LICENSING BODIES

Codes of practice

- 1 (1) The Secretary of State may by regulations make provision for a licensing body to be required to adopt a code of practice that complies with criteria specified in the regulations.
- (2) In relation to a licensing body that fails to adopt a code of practice that it is required to adopt under provision within sub-paragraph (1), the regulations may provide for a code of practice approved by the Secretary of State or by a person designated by the Secretary of State under the regulations to have effect as a code of practice adopted by the body.
- 2 Regulations under paragraph 1 may make provision as to conditions that are to be satisfied, and procedures that are to be followed—
- (a) before a licensing body is required to adopt a code of practice as described in paragraph 1(1);
 - (b) before a code of practice has effect as one adopted by a licensing body as described in paragraph 1(2).

Licensing code ombudsman

- 3 (1) The Secretary of State may by regulations make provision—

Enterprise and Regulatory Reform Bill, *continued*

- (a) for the appointment of a person (the “licensing code ombudsman”) to investigate and determine disputes about a licensing body’s compliance with its code of practice;
 - (b) for the reference of disputes to the licensing code ombudsman;
 - (c) for the investigation and determination of a dispute so referred.
- (2) Provision made under this paragraph may in particular include provision—
- (a) about eligibility for appointment as the licensing code ombudsman;
 - (b) about the disputes to be referred to the licensing code ombudsman;
 - (c) requiring any person to provide information, documents or assistance to the licensing code ombudsman for the purposes of an investigation or determination;
 - (d) requiring a licensing body to comply with a determination of the licensing code ombudsman;
 - (e) about the payment of expenses and allowances to the licensing code ombudsman.

Code reviewer

- 4 (1) The Secretary of State may by regulations make provision—
- (a) for the appointment by the Secretary of State of a person (the “code reviewer”) to review and report to the Secretary of State on—
 - (i) the codes of practice adopted by licensing bodies, and
 - (ii) compliance with the codes of practice;
 - (b) for the carrying out of a review and the making of a report by that person.
- (2) The regulations must provide for the Secretary of State, before appointing a person as the code reviewer, to consult persons whom the Secretary of State considers represent the interests of licensing bodies, licensees, members of licensing bodies, and the Intellectual Property Office.
- (3) The regulations may, in particular, make provision—
- (a) requiring any person to provide information, documents or assistance to the code reviewer for the purposes of a review or report;
 - (b) about the payment of expenses and allowances to the code reviewer.
- (4) In this paragraph “member”, in relation to a licensing body, means a person on whose behalf the body is authorised to negotiate or grant licences.

Sanctions

- 5 (1) The Secretary of State may by regulations provide for the consequences of a failure by a licensing body to comply with—

Enterprise and Regulatory Reform Bill, *continued*

- (a) a requirement to adopt a code of practice under provision within paragraph 1(1);
 - (b) a code of practice that has been adopted by the body in accordance with a requirement under provision within paragraph 1(1), or that has effect as one adopted by the body under provision within paragraph 1(2);
 - (c) a requirement imposed on the body under any other provision made under this Schedule;
 - (d) an authorisation under regulations under section 116A or 116B;
 - (e) a requirement imposed by regulations under section 116A or 116B;
 - (f) an authorisation under regulations under paragraph 1A or 1B of Schedule 2A;
 - (g) a requirement imposed by regulations under paragraph 1A or 1B of that Schedule.
- (2) The regulations may in particular provide for—
- (a) the imposition of financial penalties or other sanctions;
 - (b) the imposition of sanctions on a director, manager or similar officer of a licensing body or, where the body's affairs are managed by its members, on a member.
- (3) The regulations may include provision—
- (a) for determining whether there has been a failure to comply with a requirement or code of practice for the purposes of sub-paragraph (1);
 - (b) for determining any sanction that may be imposed in respect of the failure to comply;
 - (c) for an appeal against the imposition of any such sanction.
- (4) A financial penalty imposed under sub-paragraph (2) must not be greater than £50,000.
- (5) The regulations may provide for a determination within sub-paragraph (3)(a) or (3)(b) to be made by the Secretary of State or by a person designated by the Secretary of State under the regulations.
- (6) The regulations may make provision for requiring a person to give the person by whom a determination within sub-paragraph (3)(a) falls to be made (the “adjudicator”) any information that the adjudicator reasonably requires for the purpose of making that determination.

Fees

- 6 (1) The Secretary of State may by regulations require a licensing body to which regulations under any other paragraph of this Schedule apply to pay fees to the Secretary of State.
- (2) The aggregate amount of fees payable under the regulations must not be more than the cost to the Secretary of State of administering the operation of regulations under this Schedule.

Enterprise and Regulatory Reform Bill, *continued**General*

- 7 (1) The power to make regulations under this Schedule includes in particular power—
- (a) to make incidental, supplementary or consequential provision, including provision extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it;
 - (b) to make provision for bodies of a particular description, or carrying out activities of a particular description, not to be treated as licensing bodies for the purposes of requirements imposed under regulations under this Schedule;
 - (c) to make provision that applies only in respect of licensing bodies of a particular description, or only in respect of activities of a particular description;
 - (d) otherwise to make different provision for different purposes.
- (2) Regulations under a paragraph of this Schedule may amend this Part or Part 2, or any other enactment or subordinate legislation passed or made before the paragraph in question comes into force, for the purpose of making consequential provision or extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it.
- (3) Regulations may impose requirements by reference to guidance issued from time to time by any person.
- (4) The power to make regulations is exercisable by statutory instrument.
- (5) A statutory instrument containing regulations that amend an enactment may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- 8 References in this Schedule to a licensing body are to a body that is a licensing body for the purposes of this Chapter or for the purposes of Chapter 2 of Part 2, and references to licensees are to be construed accordingly.”

PART 2

PERFORMERS' RIGHTS

- 1 Schedule 2A to the Copyright, Designs and Patents Act 1988 (licensing of performers' property rights) is amended as follows.
- 2 In the heading of the Schedule omit “property”.
- 3 In paragraph 1, after sub-paragraph (4) insert—
- “(5) Schedule A1 confers powers to provide for the regulation of licensing bodies.”
- 4 After paragraph 1 insert—

Enterprise and Regulatory Reform Bill, *continued**“Orphan rights licensing and extended collective licensing*

- 1A (1) The Secretary of State may by regulations provide for the grant of licences to do, or authorise the doing of, acts to which section 182, 182A, 182B, 182C, 182CA, 183 or 184 applies in respect of a performance, where—
- (a) the performer’s consent would otherwise be required under that section, but
 - (b) the right to authorise or prohibit the act qualifies as an orphan right under the regulations.
- (2) The regulations may—
- (a) specify a person or a description of persons authorised to grant licences, or
 - (b) provide for a person designated in the regulations to specify a person or a description of persons authorised to grant licences.
- (3) The regulations must provide that, for a right to qualify as an orphan right, it is a requirement that the owner of the right has not been found after a diligent search made in accordance with the regulations.
- (4) The regulations must provide for any licence—
- (a) to have effect as if granted by the missing owner;
 - (b) not to give exclusive rights;
 - (c) not to be granted to a person authorised to grant licences.
- (5) The regulations may apply in a case where it is not known whether a performer’s right subsists, and references to a right, to a missing owner and to an interest of a missing owner are to be read as including references to a supposed right, owner or interest.
- 1B (1) The Secretary of State may by regulations provide for a licensing body that applies to the Secretary of State under the regulations to be authorised to grant licences to do, or authorise the doing of, acts to which section 182, 182A, 182B, 182C, 182CA, 183 or 184 applies in respect of a performance, where the right to authorise or prohibit the act is not owned by the body or a person on whose behalf the body acts.
- (2) An authorisation must specify the acts to which any of those sections applies that the licensing body is authorised to license.
- (3) The regulations must provide for the rights owner to have a right to limit or exclude the grant of licences by virtue of the regulations.
- (4) The regulations must provide for any licence not to give exclusive rights.
- 1C (1) This paragraph and paragraph 1D apply to regulations under paragraphs 1A and 1B.
- (2) The regulations may provide for a body to be or remain authorised to grant licences only if specified requirements are met, and for a question whether they are met to be determined by a person, and in a manner, specified in the regulations.

Enterprise and Regulatory Reform Bill, *continued*

- (3) The regulations may specify other matters to be taken into account in any decision to be made under the regulations as to whether to authorise a person to grant licences.
 - (4) The regulations must provide for the treatment of any royalties or other sums paid in respect of a licence, including—
 - (a) the deduction of administrative costs;
 - (b) the period for which sums must be held;
 - (c) the treatment of sums after that period (as *bona vacantia* or otherwise).
 - (5) The regulations must provide for circumstances in which an authorisation to grant licences may be withdrawn, and for determining the rights and obligations of any person if an authorisation is withdrawn.
 - (6) The regulations may include other provision for the purposes of authorisation and licensing, including in particular provision—
 - (a) for determining the rights and obligations of any person if a right ceases to qualify as an orphan right (or ceases to qualify by reference to any rights owner), or if a rights owner exercises the right referred to in paragraph 1B(3), while a licence is in force;
 - (b) about maintenance of registers and access to them;
 - (c) permitting the use of a work for incidental purposes including an application or search;
 - (d) for a right conferred by section 205C to be treated as having been asserted under section 205D;
 - (e) for the payment of fees to cover administrative expenses.
- 1D
- (1) The power to make regulations includes power—
 - (a) to make incidental, supplementary or consequential provision, including provision extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it;
 - (b) to make transitional, transitory or saving provision;
 - (c) to make different provision for different purposes.
 - (2) Regulations under any provision may amend this Part, or any other enactment or subordinate legislation passed or made before that provision comes into force, for the purpose of making consequential provision or extending or restricting the jurisdiction of the Copyright Tribunal or conferring powers on it.
 - (3) Regulations may make provision by reference to guidance issued from time to time by any person.
 - (4) The power to make regulations is exercisable by statutory instrument.
 - (5) A statutory instrument containing regulations that amend an enactment may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

Enterprise and Regulatory Reform Bill, *continued*

- (6) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.”
- 5 In section 205A of the Copyright, Designs and Patents Act 1988, and in the italic heading before that section (licensing of performers’ property rights), omit “property”.’.

Mr Iain Wright
Ian Murray
Chi Onwurah

NS2

★ To move the following Schedule:—

‘COMMISSION FOR EQUALITY AND HUMAN RIGHTS-INDEPENDENCE FROM GOVERNMENT

- 1 Schedule 1 to the Equality Act 2006 is amended as follows.
- 2 Replace all reference to “Minister” with “both Houses of Parliament”.’.

ORDER OF THE HOUSE [11 JUNE 2012]

That the following provisions shall apply to the Enterprise and Regulatory Reform Bill—

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 17 July 2012.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.
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Enterprise and Regulatory Reform Bill, *continued*

ORDER OF THE COMMITTEE [19 JUNE 2012]

That—

- (1) the Committee shall (in addition to its first meeting at 10.30 am on Tuesday 19 June) meet—
- (a) at 4.00 pm on Tuesday 19 June;
 - (b) at 9.00 am on Thursday 21 June;
 - (c) at 10.30 am and 4.00 pm on Tuesday 26 June;
 - (d) at 9.00 am and 1.00 pm on Thursday 28 June;
 - (e) at 10.30 am and 4.00 pm on Tuesday 3 July;
 - (f) at 9.00 am and 1.00 pm on Thursday 5 July;
 - (g) at 10.30 am and 4.00 pm on Tuesday 10 July;
 - (h) at 9.00 am and 1.00 pm on Thursday 12 July;
 - (i) at 10.30 am and 4.00 pm on Tuesday 17 July;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

TABLE

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 19 June	Until no later than 11.15 am	Confederation of British Industry; EEF; Institute of Directors
Tuesday 19 June	Until no later than 11.45 am	British Chambers of Commerce; Federation of Small Businesses
Tuesday 19 June	Until no later than 1.00 pm	Trades Union Congress; Unite; GMB
Tuesday 19 June	Until no later than 4.45 pm	Association of British Insurers; Hermes Equity Ownership Services Ltd.; National Association of Pension Funds
Tuesday 19 June	Until no later than 5.45 pm	Chartered Institute of Personnel and Development; Free Representation Unit; Public Concern at Work; Advisory, Conciliation and Arbitration Service
Tuesday 19 June	Until no later than 6.15 pm	Equality and Human Rights Commission
Thursday 21 June	Until no later than 9.30 am	Citizens Advice; Professor Sir John Vickers (Warden, All Souls College, Oxford)
Thursday 21 June	Until no later than 10.25 am	Law Society; Law Society of Scotland; Allen & Overy LLP; Simpson Millar LLP
Thursday 21 June	Until no later than 11.25 am	Malcolm Nicholson (Reporting Panel Member, Competition Commission); City of London Law Society; Professor Catherine Waddams (Professor of Regulation, University of East Anglia)
Thursday 21 June	Until no later than 12 noon	RenewableUK; E3G; Friends of the Earth

Enterprise and Regulatory Reform Bill, *continued*

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 21 June	Until no later than 1.15 pm	Local Government Association; Trading Standards Institute; West Yorkshire Joint Services; British Retail Consortium
Thursday 21 June	Until no later than 2.15 pm	Sir David Walker (author of 'Walker Review of Corporate Governance of UK Banking Industry'); High Pay Centre; Adrian Beecroft (author of Beecroft report on employment law)

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 7; Schedule 1; Clause 8; Schedule 2; Clauses 9 to 13; Schedule 3; Clauses 14 to 18; Schedule 4; Clause 19; Schedules 5 and 6; Clause 20; Clause 24; Schedule 8; Clauses 21 and 22; Schedule 7; Clause 23; Clauses 25 and 26; Schedule 9; Clause 30; Schedule 12; Clause 28; Schedule 11; Clause 27; Schedule 10; Clause 29; Clauses 31 to 33; Schedule 13; Clauses 34 to 43; Schedule 14; Clauses 44 to 47; Schedule 15; Clauses 48 to 50; Schedule 16; Clauses 51 to 54; Schedule 17; Clauses 55 to 63; new Clauses, new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 8.00 pm on Tuesday 17 July.
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