



# House of Commons

Tuesday 9 February 2016

## PUBLIC BILL COMMITTEE PROCEEDINGS

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### ENTERPRISE BILL [*LORDS*]

[*FIRST AND SECOND SITTINGS*]

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Anna Soubry

*Agreed to*

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 9 February) meet—
    - (a) at 2.00 pm on Tuesday 9 February;
    - (b) at 11.30 am and 2.00 pm on Thursday 11 February;
    - (c) at 9.25 am and 2.00 pm on Tuesday 23 February;
    - (d) at 11.30 am and 2.00 pm on Thursday 25 February;
  - (2) the proceedings shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 14; Schedule 2; Clauses 15 to 19; Schedule 3; Clauses 20 to 35; Schedule 4; new Clauses; new Schedules; Clauses 36 to 40; and remaining proceedings on the Bill; and
  - (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 25 February.
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Anna Soubry

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

*Agreed to*

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Bill Esterson  
Kevin Brennan

*Negated on division* 33

Clause 1, page 1, line 5, at end insert—

“(1A) Her Majesty may by Letters Patent from time to time appoint a person to be the Commissioner.

**Enterprise Bill [Lords], continued**

- (1B) A person appointed to be the Commissioner shall hold office until the end of the period for which he is appointed.
- (1C) A person appointed to be the Commissioner may be—
- (a) relieved of office by Her Majesty at his own request, or
  - (b) removed from office by Her Majesty on the ground of gross misconduct.
- (1D) Her Majesty may declare the office of Commissioner to have been vacated if satisfied that the person appointed to be the Commissioner is incapable for medical reasons—
- (a) of performing the duties of his office; and
  - (b) of requesting to be relieved of it.
- (1E) A person appointed to be the Commissioner is not eligible for re-appointment.”

**Member's explanatory statement**

*This amendment would provide a level of independence for the Small Business Commissioner, adapted from the arrangements for the appointment of the Information Commissioner and the Parliamentary Commissioner for Administration who are appointed by the Crown following advice from both Houses of Parliament.*

Bill Esterson  
Kevin Brennan

*Negated on division* 37

Clause 1, page 1, line 9, leave out paragraph (b) and insert—

- “(b) to consider complaints from small businesses relating to matters in connection with the supply of goods and services to—
- (i) larger businesses and
  - (ii) public authorities
- and to make recommendations.”

**Member's explanatory statement**

*This amendment would widen the consideration of complaints function to cover complaints from small businesses relating to matters in connection with the supply of goods and services to larger businesses and to public authorities (as defined in clause 13).*

Bill Esterson  
Kevin Brennan  
Hannah Bardell

*Withdrawn* 38

Clause 1, page 1, line 11, at end insert—

- “(c) to consider complaints from small businesses relating to their access to finance, and, where the Commissioner considers it appropriate, to make recommendations to the Secretary of State about measures that should be taken to improve small businesses' access to finance.”

**Member's explanatory statement**

*This amendment would extend the remit of the Commissioner to receive complaints about the access of small businesses to finance, and would enable the Commissioner to make recommendations to the Secretary of State about measures to improve small businesses' access to finance.*

Bill Esterson  
Kevin Brennan

*Not called* 39

Clause 1, page 1, line 11, at end insert—

- “(2A) The complaints at subsection 2(b) include complaints from
- (a) small businesses relating to cash retentions and

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**Enterprise Bill [Lords], continued**

(b) construction firms regarding cash retention by companies.”

**Member's explanatory statement**

*This amendment would make it clear that the Small Business Commissioner's remit included complaints from small businesses about cash retentions and from construction firms about cash retention by other companies.*

*Clause agreed to.*

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Bill Esterson  
Kevin Brennan

*Not called* 34

Schedule 1, page 56, line 7, leave out paragraph 2

**Member's explanatory statement**

*This amendment in conjunction with amendment 33 would establish the Small Business Commissioner as an appointment by the Crown.*

Bill Esterson  
Kevin Brennan

*Not called* 35

Schedule 1, page 56, line 19, leave out sub-paragraph (d)

**Member's explanatory statement**

*This amendment in conjunction with amendment 33 would establish the Small Business Commissioner as an appointment by the Crown.*

Bill Esterson  
Kevin Brennan

*Not called* 36

Schedule 1, page 56, line 21, leave out sub-paragraph (e)

**Member's explanatory statement**

*This amendment would remove the Secretary of State's powers to dismiss the Small Business Commissioner.*

*Schedule agreed to.*

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*Clause 2 agreed to.*

Bill Esterson  
Kevin Brennan

*Withdrawn* 40

Clause 3, page 3, line 10, at end insert—

“(d) tax rates, allowances and thresholds of relevance to small business owners.”

**Member's explanatory statement**

*This amendment would extend the general information and advice that may be published by the Commissioner to include tax rates, allowances and thresholds of relevance to small businesses.*

Enterprise Bill [*Lords*], *continued*

Bill Esterson  
Kevin Brennan

*Not called* 41

Clause 3, page 3, line 10, at end insert—

“(e) guidance on payday loan rates and their appropriateness.”

***Member’s explanatory statement***

*This amendment would extend the general information and advice that may be published by the Commissioner to include information about payday loans.*

Bill Esterson  
Kevin Brennan  
Hannah Bardell

*Withdrawn* 42

Clause 3, page 3, line 29, at end insert—

“(5A) The Commissioner may assist small businesses by taking an active and direct role in resolving, mediating or facilitating the resolution of disputes.”

***Member’s explanatory statement***

*This amendment would give the Small Business Commissioner the power to take an active role in resolving, mediating or facilitating the resolution of disputes.*

Bill Esterson  
Kevin Brennan

*Not called* 43

Clause 3, page 3, line 29, at end insert—

“(5B) The Commissioner must publish, or give to small businesses, general advice or information about the relationship between the Small Business Commissioner’s complaints scheme and any other legal remedy available to a complainant.”

***Member’s explanatory statement***

*This amendment would require the Small Business Commissioner to give general advice or information to small businesses about the relationship between the Small Business Commissioner complaints scheme and any other legal remedies available.*

Bill Esterson  
Kevin Brennan

*Not called* 44

Clause 3, page 3, line 43, at end insert—

“(9A) Where a recommendation is made under subsection (8), the Commissioner may take the relevant action in response to the recommendations where she sees fit.”

***Member’s explanatory statement***

*This amendment would give the Small Business Commissioner the power to act directly on recommendations he has made.*

Bill Esterson  
Kevin Brennan

*Not called* 45

Clause 3, page 4, line 9, leave out paragraph (c)

***Member’s explanatory statement***

*This amendment would include public authorities in the definition of “larger business”, and therefore extend the Small Business Commissioner’s remit to include consideration of complaints by small businesses relating to public authorities.*

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**Enterprise Bill [Lords], continued**

*Clause agreed to.*

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Bill Esterson  
Kevin Brennan  
Hannah Bardell

*Withdrawn 47*

Clause 4, page 4, line 25, at end insert—

“or is made by a small business (“the complainant”) which has an agreement to supply, or has supplied or may supply, goods or services to another small or medium sized business (“the respondent”), which has the same meaning given by section 7(1) in the Small Business, Enterprise and Employment Act 2015.”

***Member’s explanatory statement***

*This amendment would extend the Small Business Commissioner’s remit to complaints made by an SME against another, to which it is providing goods or services.*

Bill Esterson  
Kevin Brennan

*Withdrawn 48*

Clause 4, page 4, line 26, after “(4)” insert “or relates to allegations of unfair treatment or unfair contracts”

***Member’s explanatory statement***

*This amendment would empower the Small Business Commissioner to investigate allegations of unfair treatment or unfair contracts.*

Bill Esterson  
Kevin Brennan

*Withdrawn 46*

Clause 4, page 4, line 27, at end insert—

“(3A) A relevant complaint may be made anonymously.”

***Member’s explanatory statement***

*This amendment would enable the Commissioner to act on anonymous complaints from small businesses against a larger business.*

Bill Esterson  
Kevin Brennan

*Not called 49*

Clause 4, page 4, line 27, at end insert—

“(3A) A “relevant complaint” at subsection (3) may be made anonymously by a small business (“the complainant”) which has an agreement to supply, or has supplied or may supply, goods or services to a larger business”

***Member’s explanatory statement***

*This amendment would allow the Small Business Commissioner to be able to act on anonymous complaints.*

*Clause agreed to.*

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Enterprise Bill [*Lords*], *continued*

Bill Esterson  
Kevin Brennan

*Withdrawn* 50

Clause 5, page 5, line 35, at end insert—

“(3A) Where the respondent fails to provide information voluntarily the Commissioner may investigate the failure and can enforce compliance with information requests on contract terms.”

***Member’s explanatory statement***

*This amendment would allow the Small Business Commissioner to investigate and require compliance with information requests on contract terms.*

Bill Esterson  
Kevin Brennan  
Hannah Bardell

*Not called* 51

Clause 5, page 5, line 37, at end insert—

“(4A) In enquiring into, considering and determining a complaint, the Commissioner must take all reasonable steps not to identify the complainant, unless the complainant consents.”

***Member’s explanatory statement***

*This amendment would provide anonymity to complainants who raise a complaint with the Commissioner.*

Bill Esterson  
Kevin Brennan

*Not called* 52

Clause 5, page 5, line 37, at end insert—

“(4A) In support of the consideration and determination of a complaint made under the Small Business Commissioner complaints scheme, the following bodies may be required to provide information or answer questions during the course of the Commissioner’s investigations—

- (a) Government departments,
- (b) local authorities,
- (c) public sector bodies, and
- (d) companies.”

***Member’s explanatory statement***

*This amendment would require Government, local authorities and public sector bodies and companies to provide information or to answer questions when a complaint is made.*

Bill Esterson  
Kevin Brennan

*Not called* 53

Clause 5, page 5, line 44, at end insert—

“(6A) A recommendation made under subsection (6) may be that the complainant and respondent enter mediation to resolve their dispute.

(6B) Where a party declines mediation the relevant party shall provide an outline to the Commissioner on costs relating to litigation.”

***Member’s explanatory statement***

*This amendment would allow the Small Business Commissioner to recommend that the parties attend mediation and to make a commentary on costs in litigation where a party declines mediation.*

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Enterprise Bill [*Lords*], *continued*

Bill Esterson  
Kevin Brennan

*Not called* 54

Clause 5, page 6, line 10, at end insert—

“(12) On application by the Commissioner a court may declare an unfair contract term void.”

***Member’s explanatory statement***

*This amendment would empower the courts on application from the Small Business Commissioner to declare void a contract term that is unfair.*

*Clause agreed to.*

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[Adjourned until Thursday at 11.30am