

All line references relate to the large font accessible version of the Bill



House of Commons

Wednesday 20 January 2021

CONSIDERATION OF BILL (REPORT STAGE)

*New Amendments handed in are marked thus **

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

NATIONAL SECURITY AND INVESTMENT BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at

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the end. The amendments have been arranged in the order in which they relate to the Bill.

Stephen Flynn

NC1

To move the following Clause—

“Impact on academic research spin-off enterprises

- (1) Within one year of this Act being passed, the Secretary of State must lay before Parliament an assessment of the Act’s impact on academic research spin-off enterprises.
- (2) The assessment under subsection (1) must be reviewed at least once every five years.”

Member’s explanatory statement

This new clause would require the Secretary of State to assess the impact of this Bill on academic research spin-off enterprises.

Stephen Flynn

NC2

To move the following Clause—

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“Report on impact on Small to Medium Enterprises

Not later than 18 months after the day on which this Act receives Royal Assent, the Secretary of State must lay before Parliament—

- (a) a report setting out the impacts the Act has had on Small to Medium Enterprises and early-stage ventures, and
- (b) guidance for Small to Medium Enterprises and early-stage ventures on complying with the provisions of this Act.”

Member’s explanatory statement

This new clause would require the Government to produce a report setting out the impacts of this legislation on Small to Medium Enterprises and early-stage ventures, and to produce relevant guidance.

Stephen Flynn

NC3

To move the following Clause—

“Grace period for Small and Medium Enterprises

All line references relate to the large font accessible version of the Bill

For the purposes of section 32, a person has a reasonable excuse if—

(a) the entity concerned is a Small to Medium Enterprise;

(b) this Act has been in force for less than six months.”

Member’s explanatory statement

This new clause creates a grace period whereby – for alleged offences committed under Section 32 – Small to Medium Enterprises would have a ‘reasonable excuse’ if the alleged offence was committed within the first six months after the Bill’s passage.

Tom Tugendhat

NC4

To move the following Clause—

“Framework for understanding national security

When assessing a risk to national security for the purposes of this Act, the Secretary of State must have regard to factors including, but not restricted to—

All line references relate to the large font accessible version of the Bill

- (a) the potential impact of the trigger event on the UK's defence capabilities and interests;
- (b) whether the trigger event risks enabling a hostile actor to—
 - (i) gain control or significant influence of a part of a critical supply chain, critical national infrastructure, or natural resource;
 - (ii) conduct espionage via or exert undue leverage over the target entity;
 - (iii) obtain access to sensitive sites or to corrupt processes or systems;
- (c) the characteristics of the acquirer, including whether it is effectively directly or indirectly under the control, or subject to the direction, of a foreign government;
- (d) whether the trigger event adversely impacts the UK's capability and capacity to maintain security of supply or strategic capability in sectors critical to the UK's economy or creates a situation of significant economic dependency;
- (e) the potential impact of the trigger event on the transfer of sensitive data, technology or potentially sensitive intellectual property in strategically important sectors, outside of the UK;

All line references relate to the large font accessible version of the Bill

- (f) the potential impact of the trigger event on the UK’s international interests and obligations, including compliance with UK legislation on modern slavery and compliance with the UN Genocide Convention;
 - (g) the potential of the trigger event to involve or facilitate significant illicit or subversive activities, including terrorism, organised crime, money laundering and tax evasion; and
 - (h) whether the trigger event may adversely impact the safety and security of UK citizens or the UK.”
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Chi Onwurah

NC5

To move the following Clause—

“National Security Definition

When assessing a risk to national security for the purposes of this Act, the Secretary of State must have regard to factors including, but not restricted to—

- (a) the potential impact of the trigger event on the UK’s defence capabilities and interests;

All line references relate to the large font accessible version of the Bill

(b) whether the trigger event risks enabling a hostile actor to—

(i) gain control or significant influence of a critical supply chain, critical national infrastructure, or natural resource;

(ii) conduct espionage or exert undue leverage over the target entity;

(iii) obtain access to sensitive sites; or

(iv) to corrupt processes or systems.

(c) the characteristics of the acquirer, including whether it is effectively directly or indirectly under the control, or subject to the direction, of a foreign government;

(d) whether the trigger event adversely impacts the UK's capability and capacity to maintain security of supply or strategic capability in sectors critical to the UK's economy or creates a situation of significant economic dependency;

(e) the potential impact of the trigger event on the transfer of sensitive data, technology or potentially sensitive intellectual property in strategically important sectors, outside of the UK;

(f) the potential impact of the trigger event on the UK's international interests and obligations,

All line references relate to the large font accessible version of the Bill

including compliance with UK legislation on modern slavery and compliance with the UN Genocide Convention;

(g) the potential of the trigger event to involve or facilitate significant illicit or subversive activities, including terrorism, organised crime, money laundering and tax evasion; and

(h) whether the trigger event may adversely impact the safety and security of UK citizens or the UK.”

Member’s explanatory statement

This new clause establishes factors which the Secretary of State must have regard to when assessing a risk to national security.”

Chi Onwurah

NC6

To move the following Clause—

“Dedicated Small to Medium Enterprise support

(1) Within 3 months of this Act receiving Royal Assent the Secretary of State must set up, a specific division focused on engagement with Small to

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Medium enterprises (SMEs) engaged in any provisions of this Act.

- (2) The division must focus on four functions—
- (a) providing updated, efficient and accessible guidance specific to SMEs on compliance with the terms of this Act;
 - (b) engaging with SMEs in advance of formal notification that can allow efficient notice and assessment periods, including through use of regulatory sandboxes where beneficial for innovation and national security;
 - (c) providing regular engagement with and assistance to SMEs throughout the assessment periods for SMEs;
 - (d) seeking to deliver prompt, proportionate resolution of complaints by SMEs relating to the provisions of this Bill;
 - (e) monitor the impact on access to investment for SMEs and report to the Secretary of State.”

Member’s explanatory statement

This new clause would require the Secretary of State to set up a Small to Medium Enterprise (SME) engagement unit to assist and support SMEs through the national security screening process.

All line references relate to the large font accessible version of the Bill

Chi Onwurah

NC7

To move the following Clause—

“Reports to the Intelligence and Security Committee of Parliament

- (1) The Secretary of State must, in relation to each relevant period—
 - (a) prepare a report in accordance with this section, and
 - (b) provide a copy of it to the Intelligence and Security Committee of Parliament as soon as is practicable after the end of that period.
- (2) Each report must provide, in respect of mandatory and voluntary notifications, call-in notices, and final orders made under this Act, details of—
 - (a) the jurisdiction of the acquirer and its incorporation;
 - (b) the number of state-owned entities and details of states of such entities;
 - (c) the nature of national security risks posed in transactions for which there were final orders;
 - (d) details of particular technological or sectoral expertise that were being targeted; and

All line references relate to the large font accessible version of the Bill

(e) any other information the Secretary of State may deem instructive on the nature of national security threats uncovered through review undertaken under this Act.”

Member’s explanatory statement

This new clause would require the Government to publish an ‘Annual Security Report’ to the Intelligence and Security Committee of Parliament.

Stephen Flynn

3

Clause **3**, page **6**, line **15**, leave out subsection (4) and insert—

“(4) The Secretary of State must review a statement published under this section within one year after the publication of the first such statement, and thereafter at least once every 5 years.”

Member’s explanatory statement

This amendment would require the Secretary of State to review the statement about exercise of call-in power to be reviewed one year after they are made, and once every five years thereafter.

All line references relate to the large font accessible version of the Bill

Stephen Flynn

1

Clause 6, page 11, line 1, at end insert—

“(10) Notifiable acquisition regulations must be reviewed one year after they are made, and once every five years thereafter.”

Member’s explanatory statement

This amendment would require notifiable acquisition regulations (including which sectors are covered) to be reviewed one year after they are made, and once every five years thereafter.

Stephen Flynn

6

Clause 6, page 11, line 1, at end insert—

“(10) Notifiable acquisition regulations must bring broadcast, print and social media companies within the scope of the mandatory notification regime.”

Stephen Flynn

All line references relate to the large font accessible version of the Bill

2

Clause 8, page 15, line 11, at end insert—

“(8A) The fifth case is where a person becomes a major debt holder and therefore gains influence over the entity’s operation and policy decisions.

(8B) For the purposes of subsection (8A), a major debt holder is a person who holds at least 25% of the entity’s total debt.

(8C) The sixth case is where a person becomes a supplier to the entity of goods, services, infrastructure or resources to such an extent that the withholding of the supply would seriously undermine the entity’s ability to continue its operations.”

Member’s explanatory statement

This amendment would mean that a person becoming a major debt holder or a major supplier would count as a person gaining control of a qualifying entity.

Stephen Flynn

4

Clause 30, page 47, line 1, after “period” insert “or any calendar year”

Member’s explanatory statement

All line references relate to the large font accessible version of the Bill

This amendment would make it mandatory for the Government to inform Parliament if financial assistance given in any financial year, or in any calendar year, exceeds £100 million.

Stephen Flynn

5

Clause **54**, page **76**, line **4**, at end insert—

“(aa) whether the law of the country or territory to whose authority the disclosure would be made contains provisions and prohibit any use or disclosure of the information contrary to subsection (4),

(ab) whether the Secretary of State considers that disclosing the information to that authority would in itself pose a threat to national security, and”

Member’s explanatory statement

This amendment would add to the list of factors the Secretary of State takes into consideration a sub-clause to ensure that a country or territory making a disclosure request has sufficient safeguarding in place to prevent any action that would be considered unlawful in the UK.

All line references relate to the large font accessible version of the Bill

Chi Onwurah

7

Clause 61, page 81, line 4, at end insert—

“(m) the average number of days taken to assess a trigger event called in under the Act;
(n) the average number of days taken for acceptance decisions in respect of mandatory and voluntary notices;
(o) the average staff resource allocated to the operation of reviews of notices made under sections 14 and 18 over the relevant period;
(p) the number and proportion of notices and call-in notices concerning the acquisition of a Small to Medium Enterprise; and
(q) in respect of the transactions stated subsection (p), the sectors of the economy in relation to which call-in notices were given.”

Member’s explanatory statement

This amendment would require the Secretary of State to report on the time taken to process notices, the resource allocated to the new Unit and the extent to which Small to Medium Enterprises are being called-in under the new regime.

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ORDER OF THE HOUSE [17 NOVEMBER 2020]

That the following provisions shall apply to the National Security and Investment 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 15 December 2020.

3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.

All line references relate to the large font accessible version of the Bill

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 up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
