



House of Commons

Tuesday 8 December 2020

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

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

Amendments tabled since the last publication: 29 to 31 and NC5 to NC7

NATIONAL SECURITY AND INVESTMENT BILL

NOTE

This document includes all amendments remaining before the committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [24 November 2020].

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

22

Clause **23**, page **15**, line **15**, leave out from “as” until end of line 16 and insert “as agreed by the Secretary of State in accordance with subsection (9)”

Member’s explanatory statement

This amendment seeks to limit the flexibility of extending the assessment period to the conditions set out in subsection (9), and to remove the need for the approval of the acquirer.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

23

Clause **24**, page **16**, line **26**, at end insert—

“(6) The Secretary of State must publish each year the aggregate amount of days included under subsection (4), the number of called-in events for which such days

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are included, and the number of times information notices are given for each called-in event in the report required at Clause 61.”

Member’s explanatory statement

This amendment would require the Secretary of State to publish annual reports of how many information notices were given, how many days were added as a result of them, and how many notices were given in each relevant trigger event.

Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

27

Clause 29, page 19, line 39, leave out paragraph (a) and insert—

“(a) would be likely to prejudice the commercial interests of any person and where the publication would not be in the public interest, or”

Member’s explanatory statement

This amendment would prevent the Secretary of State from redacting notices of final order (and information within them) on commercial grounds if redacting is contrary to the public interest.

Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

24

Clause 30, page 19, line 44, leave out “making of a final order” and insert “making of an interim or a final order”

Member’s explanatory statement

This amendment would enable the Secretary of State to give financial assistance in consequence of the making of an interim order.

Peter Grant
Stephen Flynn

28

Clause 30, page 20, line 3, after “period” insert “or any calendar year,”

Member’s explanatory statement

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.

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Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

Clause 31, page 20, line 27, leave out from “in” until end of line 28 and insert “setting out the reasons for such direction and an assessment of the impacts on grounds for action that may have arisen under Part 3 of the Enterprise Act 2002”

25

Member’s explanatory statement

This amendment would require the Secretary of State to set out reasons, and an assessment of the likely impacts, when publishing directions under this section.

Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

Clause 49, page 30, line 31, leave out “28 days” and insert “three months”

26

Member’s explanatory statement

This amendment would extend the period within which applications for judicial review may be made from 28 days to three months.

Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

★ Clause 53, page 32, line 30, leave out “may” and insert “shall”

29

Member’s explanatory statement

This amendment would require the Secretary of State to set out the process to be followed.

Chi Onwurah
Stephen Kinnock
Sam Tarry
Matt Western
Dr Alan Whitehead

★ Clause 54, page 34, line 9, leave out “which appears to the Secretary of State” and insert “which, on a reasonable enquiry, appears to the Secretary of State”

30

Member’s explanatory statement

This amendment would require the Secretary of State to only share information, acquired in the

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course of national security reviews, if the Secretary of State has first undertaken reasonable enquiry.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

31

★ Clause 61, page 36, line 20, 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 annual headcount allocated to the operation of reviews of notices made under sections 14 and 18 over the relevant period;
- (p) the proportion and number of Small to Medium Enterprises in the overall number of notices and call-in notices.”

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.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

NC1

To move the following Clause—

“National Security definition

When assessing a risk to national security, the Secretary of State may have regard to factors including, but not restricted to—

- (a) whether the trigger event risks enabling a hostile actor to gain control of a crucial supply chain, obtain access to sensitive sites, corrupt processes or systems, conduct espionage, exert inappropriate leverage or engage in any other action which may undermine national security;
- (b) whether the trigger event adversely impacts the UK’s capability and capacity to maintain economic security;
- (c) the potential impact of the trigger event on the UK’s defence capabilities and interests;
- (d) the potential impact of the trigger event on the transfer of sensitive data, technology or know-how outside of the UK;
- (e) the characteristics of the acquirer, including its jurisdiction of incorporation and proximity to any state;

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- (f) the potential impact of the trigger event on the security of the UK’s critical national infrastructure;
- (g) whether the acquirer in respect of a trigger event has a history of compliance with UK and other applicable law;
- (h) the potential impact of the trigger event on the UK’s international interests and obligations, including with respect to the protection of human rights and climate risk; and
- (i) the potential of the trigger event to involve or facilitate illicit activities, including terrorism, organised crime and money laundering.”

Member’s explanatory statement

This new clause specifies a number of factors which the Secretary of State may consider when assessing a risk to national security.

Stephen Flynn
Peter Grant

NC2

To move the following Clause—

“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
Peter Grant

NC3

To move the following Clause—

“Grace period for SMEs

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

National Security and Investment Bill, *continued*

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.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

NC4

To move the following Clause—

“Complaints procedure

- (1) The Secretary of State shall by regulations set up a formal complaints procedure through which acquirers may raise complaints about the procedures followed during the course of an assessment under this Act.
- (2) Complaints as set out in subsection (1) may be made to a Procedural Officer, who—
 - (a) must not have been involved in the assessment and who is to consider significant procedural complaints relating to this section or another part of this Act; and
 - (b) may determine or settle complaints in accordance with regulations to be published by the Secretary of State within 3 months of this Bill becoming an Act.”

Member’s explanatory statement

This new clause would require the Secretary of State to establish a formal complaints procedure for acquirers.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

NC5

★ To move the following Clause—

“High- and low-risk acquirers

- (1) The Secretary of State shall set out in writing descriptions of high risk and low risk acquirers by reference to the characteristics of those persons and their actual or potential hostility to the UK’s national security and national interest, and based on regular multi-agency reviews.
- (2) Acquirers who meet the description of a high risk acquirer under subsection (1) must be subject to greater scrutiny by the Secretary of State in the carrying out of the Secretary of State’s functions under this Act.

National Security and Investment Bill, *continued*

- (3) Acquirers who meet the description of a low risk acquirer under subsection (1) must be subject to lesser scrutiny by the Secretary of State in the carrying out of the Secretary of State’s functions under this Act.”

Member’s explanatory statement

This new clause would require the Secretary of State to maintain a list of hostile actors, including potential hostile states, and allied actors to allow differential internal scrutiny to be applied, based on the characteristics of the actors linked to the acquirer.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

NC6

- ★ To move the following Clause—

“Access to information relevant to national security

- (1) The Secretary of State may by regulations make provision for the call-in power under section 1 to be exercisable by the Secretary of State in respect of circumstances where a person acquires access to, or the right of access to, sensitive information but does not acquire control of an entity within the meaning of section 8 or control of an asset within the meaning of section 9.
- (2) For the purposes of this section, sensitive information means information of any form or description the disclosure of which may give rise to a risk to national security.”

Member’s explanatory statement

This new clause would allow the Secretary of State to regulate to include new trigger events, where a person has access to information relevant to national security, even if the party does not acquire control or material influence over a qualifying asset or entity as a result of an investment.

Chi Onwurah
 Stephen Kinnock
 Sam Tarry
 Matt Western
 Dr Alan Whitehead

NC7

- ★ To move the following Clause—

“Annual report to the Intelligence and Security Committee

- (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, trigger events called-in, and final orders given, 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;

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

Member’s explanatory statement

This new clause would provide the Intelligence and Security Committee with information about powers exercised under this Act, allowing closer scrutiny and monitoring.

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.
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.
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ORDER OF THE COMMITTEE [24 NOVEMBER 2020]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25am on Tuesday 24 November) meet—
 - (a) at 2.00 pm on Tuesday 24 November;
 - (b) at 11.30 am and 2.00 pm on Thursday 26 November;
 - (c) at 9.25 am and 2.00 pm on Tuesday 1 December;
 - (d) at 11.30 am and 2.00 pm on Thursday 3 December;
 - (e) at 9.25 am and 2.00 pm on Tuesday 8 December;
 - (f) at 11.30 am and 2.00 pm on Thursday 10 December;
 - (g) at 9.25 am on Tuesday 15 December;

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- (2) the Committee shall hear oral evidence in accordance with the following Table:

TABLE

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 24 November	Until no later than 10.30 am	The Royal United Services Institute
Tuesday 24 November	Until no later than 11.25 am	Sir Richard Dearlove KCMG OBE
Tuesday 24 November	Until no later than 2.45 pm	The Centre for International Studies, London School of Economics
Tuesday 24 November	Until no later than 3.30 pm	Skadden, Arps, Slate, Meagher & Flom LLP
Tuesday 24 November	Until no later than 4.15 pm	The Institute of Chartered Accountants in England and Wales
Tuesday 24 November	Until no later than 5.00 pm	The Investment Association
Thursday 26 November	Until no later than 12.15 pm	Slaughter and May
Thursday 26 November	Until no later than 1.00 pm	Professor Ciaran Martin, the Blavatnik School of Government, University of Oxford
Thursday 26 November	Until no later than 2.30 pm	Herbert Smith Freehills
Thursday 26 November	Until no later than 3.15 pm	Simons Muirhead and Burton
Thursday 26 November	Until no later than 4.00 pm	Chatham House
Thursday 26 November	Until no later than 4.30 pm	PricewaterhouseCoopers

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 10; Schedule 1; Clauses 11 to 58; Schedule 2; Clauses 59 to 66; 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 11.25 am on Tuesday 15 December.