

NATIONAL SECURITY AND INVESTMENT BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

1. These Explanatory Notes relate to the Lords Amendments to the National Security and Investment Bill as brought from the House of Lords on 22 April 2021.
2. These Explanatory Notes have been prepared by the Department for Business, Energy and Industrial Strategy in order to assist the reader of the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
3. These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 165, the Bill as first printed for the Lords.
4. These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
5. Lords Amendments 1-10 and 12-14 were tabled in the name of the Minister.
6. Lords Amendments 11 and 15 were tabled in the name of Lord West of Spithead.
7. An asterisk* appear in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords amendments

Lords Amendment to clause 4

Lords Amendment 1

8. This amendment ensures that as well as being able to carry out a required consultation on a draft of the statement about the exercise of the call-in power, the requirement to make changes to the draft in view of the responses to any such consultation may also be met before clause 4 comes into force.

Lords Amendments to clause 6

Lords Amendment 2

9. This amendment omits a category of notifiable acquisition, set out in clause 6(2)(b), from the scope of the mandatory notification regime, namely where a person acquires a right or interest in a qualifying entity specified in regulations such that their shareholding or voting rights in the entity increases from less than 15% to 15% or more.

Lords Amendments 3 and 4

10. These amendments are consequential on the removal of clause 6(2)(b).

Lords Amendment to clause 11

Lords Amendment 5

11. This amendment removes from clause 11(2)(b)(ii) the reference to article 9 of the Export Control Order 2008 (S.I. 2008/3231), which was revoked on implementation period completion day by regulation 4(7) of the Export Control (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/137).

Lords Amendment to clause 14

Lords Amendment 6

12. This amendment is consequential on the removal of clause 6(2)(b) (by Lords Amendment 2).

Lords Amendment to clause 32

Lords Amendment 7

13. This amendment is consequential on the removal of clause 6(2)(b) (by Lords Amendment 2).

Lords Amendments to clause 53

Lords Amendment 8

14. This amendment ensures that the power to make regulations in clause 53(1) in relation to the procedure for service of documents extends to cover all of the different types of document under the Bill.

Lords Amendment 9

15. This amendment puts beyond doubt that regulations under clause 53(1) may specify what must, or may be, done in relation to service of documents where the sender is not an individual.

Lords Amendment 10

16. This amendment avoids any doubt that regulations under clause 53(1) may specify what must, or may be, done in relation to service of documents where the sender is outside the United Kingdom.

Lords Amendments to clause 61

Lords Amendments 11* and 15*

17. These amendments require that the Secretary of State include in the annual report (as provided for by clause 61) a summary of their decisions in respect of final notifications given, and final orders made, varied or revoked, as well as a summary of any national security risk assessment provided by the Security Services in relation to those decisions.
18. Where publication of any of this information would be contrary to the interests of national security, the Secretary of State would be entitled not to include that information in the annual report but would instead be required to include it in a confidential annex to the report to be provided to the Intelligence and Security Committee of Parliament.

Lords Amendment 12

19. This amendment adds a reporting requirement to ensure that the average length of time taken to give notification of a decision to accept or reject a mandatory notice is included in the annual report that must be made by the Secretary of State under clause 61.

Lords Amendment 13

20. This amendment adds a reporting requirement to ensure that the average length of time taken to give notification of a decision to accept or reject a voluntary notice is included in the annual report that must be made by the Secretary of State under clause 61.

Lords Amendment 14

21. This amendment adds a reporting requirement to ensure that the number of final orders varied or revoked is included in the annual report that must be made by the Secretary of State under clause 61.

Financial effects of Lords Amendments

22. The Department does not consider that any of the Lords Amendments give rise to any significant expenditure.

NATIONAL SECURITY AND INVESTMENT BILL EXPLANATORY NOTES

These Explanatory Notes relate to the National Security and Investment Bill as brought from the House of Lords on 22 April 2021 (Bill 291).

Ordered by The House of Commons to be printed, 22 April 2021

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