
Committee Stage: Tuesday 2 November 2021

Subsidy Control Bill (Amendment Paper)

This document lists all amendments tabled to the Subsidy Control Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Chair's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

★ New Amendments.

New amendments: 48 to 60 and NC3

Seema Malhotra
Bill Esterson

34

Clause 32, page 17, line 10, at end insert—

“(c) the subsidy database is subject to routine audit to verify the accuracy and completeness of entries.”

Member's explanatory statement

This amendment requires the Secretary of State to ensure that the database is subject to routine audit.

Seema Malhotra
Bill Esterson

35

Clause 33, page 17, line 18, leave out subsection (2)

Member's explanatory statement

This amendment requires all subsidies to be entered onto the subsidy database.

Kirsty Blackman
Stephen Flynn

32

Clause 33, page 17, line 21, leave out “£500,000” and insert “£100,000”

Member's explanatory statement

This amendment reduces the threshold for subsidies granted under subsidy schemes to be registered in the database.

Kirsty Blackman
Stephen Flynn

26

Clause 33, page 17, line 24, leave out "one year" and insert "three months"

Member's explanatory statement

This amendment would reduce the length of time public authorities have to enter a subsidy in the database from one year to three months, with respect only to tax measure subsidies.

Seema Malhotra
Bill Esterson

37

Clause 33, page 17, line 24, leave out from "measure," to "or" in line 25 and insert "as soon as practicable, or within one month, beginning with the date of the tax declaration, whichever is sooner"

Member's explanatory statement

This amendment would require the public authority to make an entry into the subsidy database in respect of a subsidy or scheme given in the form of a tax measure as soon as practicable and at the latest within one month.

Kirsty Blackman
Stephen Flynn

18

Clause 33, page 17, line 26, leave out "six months" and insert "one month"

Member's explanatory statement

This amendment would reduce the length of time public authorities have to enter a subsidy in the database from six months to one month.

Seema Malhotra
Bill Esterson

38

Clause 33, page 17, line 26, leave out from "form," to "scheme." and insert "as soon as practicable, or within one month, whichever is sooner."

Member's explanatory statement

This amendment would require the public authority to make an entry into the subsidy database in respect of a subsidy or scheme in any other form as soon as practicable and at the latest within one month.

Kirsty Blackman 27
Stephen Flynn

Clause 33, page 17, line 27, at end insert—

“(3A) Before this section comes into force, the Secretary of State must make regulations defining the term “tax declaration” in subsection (3)(b).”

Member’s explanatory statement

This amendment requires that Government to define the term “tax declaration” before this section comes into force.

Seema Malhotra 39
Bill Esterson

Clause 33, page 17, line 27, at end insert—

“(3A) A public authority must ensure that all entries made under this section are accurate and complete”

Member’s explanatory statement

This amendment would require public authorities to ensure that all entries on the subsidy database are accurate and complete.

Seema Malhotra 36
Bill Esterson

Clause 33, page 18, line 7, leave out “negative” and insert “affirmative”

Member’s explanatory statement

This amendment makes the regulations set out in Clause 33(8) subject to the affirmative procedure.

Seema Malhotra 40
Bill Esterson

Clause 34, page 18, line 9, remove “may” and insert “must”

Member’s explanatory statement

This amendment makes the regulations listed in subsection (2) mandatory for entries on the subsidy database.

Kirsty Blackman 19
Stephen Flynn

Clause 34, page 18, line 12, leave out “may, in particular,” and insert “must”

Member’s explanatory statement

This amendment seeks to ensure the Secretary of State will include all these measures in the regulations.

Seema Malhotra 41
Bill Esterson

Clause 34, page 18, line 12, leave out from “The” to “particular,” and insert “Regulations made under subsection (1) must”

Member’s explanatory statement

This amendment makes it a requirement for subsidies entered into the database to include the information set out in paragraphs (a) to (i) of subsection (2).

Kirsty Blackman 20
Stephen Flynn

Clause 34, page 18, line 27, at end insert—

“(j) any other matter which the Secretary of State deems necessary”

Member’s explanatory statement

This amendment is linked to amendment 19.

Kirsty Blackman 21
Stephen Flynn

Clause 34, page 18, line 27, at end insert—

“(j) the purpose of the subsidy”.

Member’s explanatory statement

This amendment would allow the Secretary of State to include a requirement in regulations that a public authority’s entry in the database details the purpose of the subsidy.

Seema Malhotra 43
Bill Esterson

Clause 34, page 18, line 27, at end insert—

“(j) the date the subsidy or scheme was entered onto the database.”

Member’s explanatory statement

This amendment requires the date on which the subsidy or scheme was entered onto the database, to be included in entries on the database.

Seema Malhotra
Bill Esterson

42

Clause 34, page 18, line 34, at end insert—

“(3A) The Secretary of State may by regulations make provision about further information that must be included in a public authority’s entry in the subsidy database in relation to a subsidy or subsidy scheme.”

Member’s explanatory statement

This amendment allows the Secretary of State to make regulations setting out further information required to be published on the subsidy database.

Seema Malhotra
Bill Esterson

44

Clause 34, page 18, line 34, at end insert—

- “(d) the date the public authority confirms the decision to give each subsidy under the scheme;
- (e) the duration of each subsidy under the scheme;
- (f) any time limits or other conditions attached to the use of each subsidy under the scheme;
- (g) the amount of each subsidy or the amount budgeted for each subsidy under the scheme;
- (h) the date each subsidy under the scheme was published.”

Member’s explanatory statement

This amendment requires that the information required to be entered into the subsidy database for subsidy schemes includes much of the same information required for subsidies.

Kirsty Blackman
Stephen Flynn

22

Clause 34, page 18, line 35, leave out subsection (4) and insert—

- “(4) Regulations to be made under this section for the first time are subject to the affirmative procedure.
- (5) Any subsequent regulations made under this section are subject to the negative procedure.”

Member’s explanatory statement

This amendment would have the regulations be considered under the affirmative procedure, in the first instance, and the negative procedure for any future tweaks.

Kirsty Blackman
Stephen Flynn

33

Clause 36, page 19, line 17, after “requirements” insert “with the exception of duties under section 33,”

Member’s explanatory statement

This amendment requires that Minimum financial assistance under £315,000 is subject to the subsidy database requirements in clause 33, despite being exempt from the other control requirements in Part 2.

Seema Malhotra
Bill Esterson

45

Clause 42, page 23, line 43, at end insert—

“(1A) Before making regulations under subsection (1), the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

(1B) If consent to the making of the regulations under subsection 11(A) is not given by any of those authorities listed in subsection (1A) within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.

(1C) If regulations are made in reliance on subsection 1(6B5), the Secretary of State must make a statement to the House of Commons explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned”

Member’s explanatory statement

This amendment would require the Secretary of State to seek the consent of the Devolved Administrations before making regulations under this section. Where such consent is not given within one month beginning on the day in which it is sought, the Secretary of State may make the regulations without that consent, but must publish a statement explaining their decision.

Seema Malhotra
Bill Esterson

46

Clause 43, page 25, line 16, at end insert—

“(3A) The Scottish Ministers, the Welsh Ministers, and a Northern Ireland department may request the Secretary of State to declare a natural

disaster or another exceptional circumstance in Scotland, Wales, and Northern Ireland.

(3B) If the Secretary of State refuses a request made under section (3A), he must make a statement in the House of Commons outlining the reasons for his refusal."

Member's explanatory statement

This amendment allows the devolved administrations to ask the Secretary of State to declare a natural disaster or exceptional circumstances, so that the exemptions listed in Clause 43(1) applying to Scotland, Wales, and Northern Ireland may apply. If the Secretary of State refuses a request for exemption, this amendment requires him to make a statement to the House of Commons.

Paul Scully

1

Clause 48, page 26, line 42, at end insert—

"(1A) In subsection (1), the reference to the subsidy control requirements, so far as it relates to subsection (1)(a), does not include the requirements as to transparency in Chapter 3 of Part 2, except in relation to—

- (a) subsidies given that are subject to the provisions of Part IV or Annex 2 of the Agreement on Agriculture;
- (b) subsidies given in relation to trade in fish and fish products;
- (c) subsidies given in relation to the audiovisual sector."

Member's explanatory statement

This amendment provides that the transparency requirements in Chapter 3 of Part 2 apply to subsidies under legacy schemes, subject to exemptions relating to agriculture, fish and the audiovisual sector.

Seema Malhotra
Bill Esterson

47

Clause 48, page 27, line 6, at end insert—

"(2A) On the date on which the Act is passed, the Secretary of State must make a statement to the House of Commons regarding the applicability of Article 10 of the Northern Ireland Protocol to subsidies given and schemes made by public authorities in each part of the United Kingdom."

Member's explanatory statement

This amendment would require the Secretary of State to make a statement to the House of Commons regarding the applicability of Article 10 of the NI Protocol on the date on which the Act is passed.

Paul Scully

2

Clause 48, page 27, line 9, at end insert—

“(4) In this section “the Agreement on Agriculture” means the Agreement on Agriculture, contained in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994 (read with any adjustments necessary for context).”

Member’s explanatory statement

This amendment is consequential on Amendment 1 and provides a definition of the Agreement on Agriculture.

Kirsty Blackman
Stephen Flynn

28

Clause 52, page 28, line 10, at end insert—

- “(c) where the granting authority for a subsidy scheme is the Government department responsible for the operation of the subsidy control regime, or
- (d) where the granting authority for a subsidy is the Government department responsible for the operation of the subsidy control regime and the subsidy value is over £2 million.”

Member’s explanatory statement

This amendment makes provision for situations for mandatory referrals in cases where the department responsible for the operation of the subsidy control regime is a granter of subsidies or subsidy schemes.

Seema Malhotra

49

★ Clause 54, page 30, line 6, at end insert—

- “(2A) The Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland may request that the CMA waives the cooling off period in respect of a subsidy they make.
- (2B) A request to the CMA under subsection (2A) shall only be made in exceptional circumstances.
- (2C) The CMA may accept or reject a request made under subsection (2A).”

Member's explanatory statement

This amendment allows the Devolved Administrations to request of the CMA that the five day cooling off period is waived in exceptional circumstances. The CMA shall have the discretion to accept or reject such a request.

Paul Scully

3

Clause 54, page 30, line 8, leave out "on or"

Member's explanatory statement

This amendment ensures that a public authority may give a subsidy after the reporting period expires, but not on the final day of that period.

Seema Malhotra

48

★ Clause 54, page 30, line 10, leave out "Secretary of State" and insert "CMA"

Member's explanatory statement

This amendment provides that the power to extend the cooling off period should sit with the CMA rather than the Secretary of State.

Seema Malhotra

50

★ Clause 54, page 30, line 18, at end insert—

"(5A) The Secretary of State must by regulations define "serious deficiencies" for the purposes of this section."

Member's explanatory statement

This amendment requires the Secretary of State to define "serious deficiencies" for the purposes of directing that the cooling off period is extended.

Seema Malhotra

51

★ Clause 54, page 30, line 26, after "subsection" add "(5A),"

Member's explanatory statement

This amendment is linked to Amendment 50.

Seema Malhotra

52

★ Clause 55, page 30, line 29, after "Secretary of State" insert ", the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland"

Member's explanatory statement

This amendment extends the call in powers under this section to the Devolved Administrations.

Seema Malhotra

53

- ★ Clause 59, page 33, line 13, leave out paragraph (a)

Member's explanatory statement

This amendment removes the power for the Secretary of State to amend this section by regulation.

Seema Malhotra

54

- ★ Clause 59, page 33, line 17, leave out subsection (6)

Member's explanatory statement

This amendment is a consequential amendment linked to Amendment 53.

Seema Malhotra

55

- ★ Clause 60, page 33, line 20, after "Secretary of State" insert ", the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland"

Member's explanatory statement

This amendment extends the post-award referral powers under this section to the Devolved Administrations.

Seema Malhotra

56

- ★ Clause 60, page 33, line 27, at end insert—

"(c) that there is a risk of negative effects on competition or investment between the United Kingdom and a territory or country outside the United Kingdom."

Member's explanatory statement

This amendment provides that a post-award referral can be made where the Secretary of State considers that a subsidy or scheme risks competition or investment between the UK and a third country.

Seema Malhotra

57

- ★ Clause 60, page 34, line 1, leave out paragraphs (a) and (b) and insert “the day on which the subsidy is given or the scheme is made.”

Member’s explanatory statement

This amendment would provide the Secretary of State with 20 working days beginning on which a subsidy is given or a scheme is made.

Seema Malhotra

58

- ★ Clause 61, page 34, line 23, after “section 60” insert “, or makes a decision to investigate under section 60A,”

Member’s explanatory statement

This amendment is a consequential amendment linked to NC3.

Paul Scully

4

Clause 62, page 35, line 40, leave out paragraph (b)

Member’s explanatory statement

This amendment modifies the content of the CMA’s post-award report to ensure consistency with the content of the pre-award report required under clause 59.

Seema Malhotra

59

- ★ Clause 64, page 36, line 11, leave out paragraphs (a) and (b)

Member’s explanatory statement

This amendment removes the exemptions in relation to the CMA’s referrals and functions, for streamlined subsidy schemes and minimal financial assistance.

Paul Scully

5

Clause 64, page 36, line 22, leave out paragraph (k)

Member's explanatory statement

This amendment omits the exemption for subsidies, or subsidy schemes, relating to nuclear energy from the referral requirements of Chapter 1 of Part 4.

Seema Malhotra

60

★ Clause 64, page 36, line 29, leave out subsections (3), (4), (5) and (6)

Member's explanatory statement

This amendment removes the power of the Secretary of State to direct that the mandatory referral requirements do not apply in relation to specified subsidies or schemes.

Kirsty Blackman
Stephen Flynn

29

Clause 65, page 37, line 12, leave out "fifth" and insert "second"

Member's explanatory statement

This amendment, and Amendment 30, together require that the CMA publish a report after two years, and annually thereafter.

Kirsty Blackman
Stephen Flynn

30

Clause 65, page 37, line 14, leave out "five years" and insert "one year"

Member's explanatory statement

This amendment is linked to Amendment 29.

Kirsty Blackman 23
Stephen Flynn

Clause 70, page 40, line 12, at end insert—

- “(c) the Welsh Ministers,
- (a) the Scottish Ministers, or
- (e) a Northern Ireland department;”

Member’s explanatory statement

This amendment intends that devolved administrations are included as interested parties regarding calling in of subsidy decisions.

Kirsty Blackman 31
Stephen Flynn

Clause 71, page 40, line 36, leave out “one month” and insert “6 months”

Member’s explanatory statement

This amendment allows CAT referrals a longer period to be made.

Kirsty Blackman 24
Stephen Flynn

Clause 79, page 45, line 9, leave out “issue guidance” and insert “by the affirmative procedure make regulations”

Member’s explanatory statement

This amendment ensures that the Secretary of State’s guidance is made by affirmative regulation in order that parliament can debate the matter before implementation.

Kirsty Blackman 25
Stephen Flynn

Clause 91, page 50, line 26, at end insert—

- “(2A) The Secretary of State may not make regulations to bring the rest of this Act into force until—

- (a) regulations under section 34 and section 52 of this Act have been made and been in force for at least three months; and
- (b) guidance under section 79 of this Act has been issued and publicly available for at least three months.”

Member’s explanatory statement

This amendment allows a period of three months after the issuing of regulations relating to the subsidy database and mandatory referrals, and the publication of guidance, before parts of the Act come into force.

Kirsty Blackman
Stephen Flynn

NC1

To move the following Clause—

“Subsidy Control Principles: statement to Parliament

- (1) Within six months of the opening of a new Parliament, the Secretary of State must make a written statement to Parliament on the subsidy control principles.
- (2) The statement must include details of—
 - (a) any legislation the Government intends to bring forward to change the Subsidy Control Principles; and
 - (b) any changes the Government intends to make to guidance under section 79 of this Act.”

Member’s explanatory statement

This new clause requires a new Government to make a statement to Parliament about any changes it intends to make to the subsidy control principles.

Seema Malhotra
Bill Esterson

NC2

To move the following Clause—

“CMA investigations

The CMA may, on its own initiative, investigate and produce reports on financial assistance provided by a public authority as a subsidy where the CMA has reasonable grounds to believe the assistance may not have been provided in a manner consistent with the requirements set out in part 2 of this Act.”

Member’s explanatory statement

This new clause allows the CMA to carry out investigations and write reports, on its own initiative, on funds that granting authorities have given incorrectly on the basis that they are not a subsidy.

Seema Malhotra

NC3

★ To move the following Clause—

“Post-award investigations

- (1) The CMA may decide to conduct an investigation in relation to a subsidy that has been given or a subsidy scheme that has been made.
- (2) A decision under subsection (1) may be made in relation to any subsidy or subsidy scheme in respect of which the CMA considers—
 - (a) that there has or may have been a failure to comply with the requirements of Chapters 1 and 2 of Part 2, or
 - (b) that there has or may have been a failure to comply with the transparency obligations set out in Chapter 3 of the Part 2.
- (3) Where the CMA makes a decision to investigate under subsection (1), it must direct the public authority to provide it with—
 - (a) any assessment carried out by the public authority as to whether the financial assistance fell within the meaning of “subsidy” or “subsidy scheme” for the purposes of this Act, and the reasons for that conclusion;
 - (b) any assessment carried out by the public authority as to whether the financial assistance if assessed to constitute a subsidy or subsidy scheme would comply with the requirements of Chapter 1 and 2 of Part 2 and the reasons for that conclusion;
 - (c) any evidence relevant to those assessments;
 - (d) in a case where such assessments were not provided, the reasons for the assessments not being provided;
 - (e) any information that the public authority failed to enter in the subsidy database in accordance with Chapter 3 of Part 2; and
 - (f) such other information as is specified in regulations under section 60(8)(a).
- (4) Where the CMA decides to conduct an investigation under subsection (1), the direction given under subsection (3) must be made before the end of 20 working days beginning with the day on which the subsidy is given or the scheme is made.
- (5) The CMA must send a copy of the direction given under subsection (3) to the public authority and the Secretary of State.
- (6) The public authority must provide to the CMA the information required under subsection (3) before the end of the information period as defined in section 60(7).”

Member’s explanatory statement

This new clause provides the CMA with the power to conduct a post-award investigation where the public authority has or may have failed to comply with its requirements.

Order of the House

[22 September 2021]

That the following provisions shall apply to the Subsidy Control 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 18 November 2021.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on 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 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 Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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Order of the Committee

[26 October 2021]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 26 October) meet—
 - (a) at 2.00 pm on Tuesday 26 October;
 - (b) at 11.30 am and 2.00 pm on Thursday 28 October;
 - (c) at 9.25 am and 2.00 pm on Tuesday 2 November;
 - (d) at 11.30 am and 2.00 pm on Thursday 4 November;
 - (e) at 9.25 am and 2.00 pm on Tuesday 16 November;
 - (f) at 11.30 am and 2.00 pm on Thursday 18 November;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 26 October	Until no later than 10.30 am	Industrial Communities Alliance; Convention of Scottish Local Authorities
Tuesday 26 October	Until no later than 11.25 am	Institute for Government; Professor Stephanie Rickard, London School of Economics
Tuesday 26 October	Until no later than 2.30 pm	Institute of Directors
Tuesday 26 October	Until no later than 3.00 pm	Monckton Chambers
Tuesday 26 October	Until no later than 3.40 pm	DWF Group; UK Steel
Tuesday 26 October	Until no later than 4.00 pm	Daniel Greenberg, House of Commons Counsel for Domestic Legislation
Tuesday 26 October	Until no later than 4.30 pm	Competition and Markets Authority
Tuesday 26 October	Until no later than 5.00 pm	Ivan McKee, Scottish Government Minister for Business, Trade, Tourism and Enterprise

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 9; Schedules 1 and 2; Clauses 10 to 78; Schedule 3; Clauses 79 to 92; 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 5.00 pm on Thursday 18 November.
