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Committee Stage: Tuesday 16 November 2021

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## 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 Any withdrawn amendments are listed at the end of the document.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: 80 to 87

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Kirsty Blackman 29  
Stephen Flynn

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.

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Seema Malhotra 61  
Bill Esterson

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

**Member's explanatory statement**

This amendment would require the CMA to conduct its first review under the section in the third year after commencement.

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Kirsty Blackman 30  
Stephen Flynn

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.

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Seema Malhotra 62  
Bill Esterson

Clause 65, page 37, line 14, leave out “five” and insert “three”

**Member’s explanatory statement**

This amendment would require the CMA to prepare a subsequent review every three years.

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Seema Malhotra 63  
Bill Esterson

Clause 65, page 37, line 16, at end insert—

“(4A) In preparing any report under this section, the CMA must consult—

- (a) the Secretary of State;
- (b) the Scottish Ministers;
- (c) the Welsh Ministers; and
- (d) the Department of Economy in Northern Ireland.”

**Member’s explanatory statement**

This amendment would require the CMA to consult with the Secretary of State and Devolved Administrations before preparing any report under this section.

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Seema Malhotra 64  
Bill Esterson

Clause 65, page 37, line 27, at end insert—

“(7A) The CMA must arrange for a copy of a report prepared under this section to be laid before the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly.”

**Member’s explanatory statement**

This amendment would require the CMA to lay a copy of its reports before the devolved parliaments and assemblies.

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Seema Malhotra 65  
Bill Esterson

Clause 65, page 37, line 27, at end insert—

“(7A) Within 30 working days of a report being laid under subsection (7), the Secretary of State must make a statement to the House of Commons explaining what action will be taken to remedy any deficiencies in the effectiveness of the operation of the Act or impact of the operation of the Act on competition and investment within the United Kingdom identified by the CMA.”

**Member's explanatory statement**

This amendment would require the Secretary of State to make a statement to the House of Commons on the CMA's findings and any remedial action required.

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Seema Malhotra  
Bill Esterson

66

Clause 66, page 37, line 40, at end insert—

- “(d) the proportion of subsidies and schemes in each of paragraphs (a), (b) and (c) in relation to which the CMA found that the public authority's assessment under section 52(2)(d) or 56(2)(d) required improvement;
- (e) the proportion of subsidies and schemes in each of paragraphs (a), (b) and (c) in relation to which the CMA identified a risk of negative effects on competition or investment within the United Kingdom;
- (f) information on the geographical allocation of subsidies, including the total value of subsidies subject to mandatory and voluntary notification in the preceding 12 months that have been awarded to enterprises in each nation, region and local authority within the United Kingdom;
- (g) the number of extensions to the reporting period made under section 53(6) at the request of the CMA and the average number of days of those extensions;
- (h) the number of voluntary referrals made under section 56(1); and
- (i) the number of those voluntary referrals in relation to which the CMA has given notice under section 57(2) that it has decided not to prepare a report .”

**Member's explanatory statement**

This amendment would require the CMA to include the additional specified information in its annual report.

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Seema Malhotra  
Bill Esterson

67

Clause 68, page 38, line 39, at end insert—

- “(3A) The Chair of the CMA Board may appoint up to three non-executive members to the Subsidy Advice Unit established under subsection (1) in order to ensure that the Unit includes least one person with relevant experience in relation to each of Wales, Scotland and Northern Ireland.”

**Member's explanatory statement**

This amendment would allow the CMA Chair to appoint up to three non-executive members to ensure that the Unit includes at least one person with experience in relation to each of Wales, Scotland and Northern Ireland

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Seema Malhotra  
Bill Esterson

68

Clause 68, page 38, line 41, at end insert "or persons appointed under subsection (3A)."

**Member's explanatory statement**

This amendment is linked to Amendment 67.

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Seema Malhotra  
Bill Esterson

69

Clause 68, page 38, line 41, at end insert—

"(4A) Before making an appointment to the Subsidy Advice Unit, the CMA must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland."

**Member's explanatory statement**

This amendment would require the CMA to seek the consent of the devolved administrations before making an appointment to the Subsidy Advice Unit.

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Seema Malhotra  
Bill Esterson

72

Clause 70, page 39, line 30, leave out subsection (2)

**Member's explanatory statement**

This amendment would allow an application to be made to review a subsidy decision related to a subsidy given under a scheme.

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Seema Malhotra  
Bill Esterson

70

Clause 70, page 40, line 9, leave out "whose interests may be affected by" and insert "who has sufficient interest in"

**Member's explanatory statement**

This amendment would alter the definition of interested party to make it consistent with clause 31(3) of the Senior Courts Act 1981.

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Kirsty Blackman 23  
Stephen Flynn

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

- “(c) the Welsh Ministers,
- (d) 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.

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Seema Malhotra 71  
Bill Esterson

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

- “(c) the Scottish Ministers,
- (d) the Welsh Ministers, or
- (e) the Department for the Economy in Northern Ireland.”

**Member’s explanatory statement**

This amendment would include the Devolved Administrations within the definition of an interested party.

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Seema Malhotra 74  
Bill Esterson

Clause 71, page 40, line 31, at beginning insert “Except where subsection (1A) applies,”

**Member’s explanatory statement**

This amendment is linked to Amendment 75.

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Seema Malhotra 73  
Bill Esterson

Clause 71, page 40, line 33, leave out “one month” and insert “three months”

**Member’s explanatory statement**

This amendment would extend the period for interested parties to submit an application for review of a subsidy to three months.

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Seema Malhotra  
Bill Esterson

75

Clause 71, page 40, line 33, at end insert—

“(1A) Where a public authority has not complied with its duties under section 33(1), an application to the Tribunal under section 70 in respect of a subsidy decision must be made by sending a notice of appeal before the end of six months beginning with the date on which it is established that the section 33(1) duty has not been complied with.”

**Member’s explanatory statement**

This amendment provides for an extended period of challenge where a public duty has not complied with its section 33 duties.

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Kirsty Blackman  
Stephen Flynn

31

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.

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Seema Malhotra  
Bill Esterson

76

Clause 74, page 43, line 34, at end insert—

“(4A) The annual report prepared by the CMA under section 25(4) of, and paragraph 14 of Schedule 4 to, the Enterprise and Regulatory Reform Act 2013 must contain details of all recovery orders made in the relevant period including the names of the public authority and beneficiary and the amount to be recovered.”

**Member’s explanatory statement**

This amendment provides for the CMA’s annual report to provide details of all recovery orders made the by the CAT in the relevant period.

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Seema Malhotra 77  
Bill Esterson

Clause 76, page 44, line 21, leave out “such restrictions as it considers proportionate” and insert “the minimum restrictions that are necessary”

**Member’s explanatory statement**

This amendment provides that restrictions imposed to protect the specified categories of information should be the minimum necessary.

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Seema Malhotra 78  
Bill Esterson

Clause 76, page 44, line 27, at end insert—

“(5A) The Secretary of State must issue guidance on the restrictions that are necessary to protect the types of information described in subsection (5).”

**Member’s explanatory statement**

This amendment would require the Secretary of State to issue guidance on restrictions imposed under subsection (5).

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Seema Malhotra 79  
Bill Esterson

Clause 76, page 44, line 27, at end insert—

“(5B) The Secretary of State must by regulations make provision enabling a person to appeal against a decision by a public authority to impose any restrictions under subsection (5).”

**Member’s explanatory statement**

This amendment would require the Secretary of State to make provision for an appeals process against restrictions imposed under subsection (5).

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Seema Malhotra 80  
Bill Esterson

★ Clause 79, page 45, line 9, leave out “may” and insert “must”

**Member’s explanatory statement**

This amendment, together with Amendment 81, would require the Secretary of State to issue guidance about the practical application of the areas listed under 79(1)(a), (b), and (c).

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Kirsty Blackman  
Stephen Flynn

24

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.

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Seema Malhotra  
Bill Esterson

81

★ Clause 79, page 45, line 12, at end insert—

“(1A) The Secretary of State may issue guidance about the practical application of – ”

**Member’s explanatory statement**

This amendment, together with Amendment 80, would allow the Secretary of State to issue guidance about the practical application of the area listed under 79(1)(d), (e), (f) and (g).

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Seema Malhotra  
Bill Esterson

82

★ Clause 79, page 45, line 39, leave out subsection (5) and insert—

“(5) Before issuing guidance under this Section, the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

(5A) If consent to the making of the regulations is not given by any of those authorities 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.

(5B) If regulations are made in reliance on subsection (5B), the Secretary of State must publish a statement 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 gain the consent of the devolved administrations before issuing guidance under Clause 79.

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Seema Malhotra  
Bill Esterson

83

- ★ Clause 81, page 46, line 39, leave out “of up to 25%” and insert “up to the rate of inflation”

**Member’s explanatory statement**

This amendment would prevent modifications that increase subsidy budgets by up to 25% from being permitted, and would instead permit modifications that increased subsidy or scheme budgets by up to the rate of inflation.

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Seema Malhotra  
Bill Esterson

84

- ★ Clause 81, page 46, line 41, leave out “paragraph (g)”

**Member’s explanatory statement**

This amendment would prevent extensions of subsidy schemes from being permitted modifications.

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Seema Malhotra  
Bill Esterson

85

- ★ Clause 81, page 47, line 10, leave out “25%” and insert “inflation rate”

**Member’s explanatory statement**

This amendment relates to Amendment 83.

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Seema Malhotra  
Bill Esterson

86

- ★ Clause 87, page 49, line 9, at end insert—

“(7A) Before making regulations under this Act, the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

(7B) If consent to the making of the regulations is not given by any of those authorities 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.

(7C) If regulations are made in reliance on subsection (7B), the Secretary of State must publish a statement 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 requires the Secretary of State to seek the consent of the devolved administrations before making regulations under this Act.

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Seema Malhotra  
Bill Esterson

87

- ★ Clause 91, page 50, line 26, at end insert “which must be no later than six months following the day on which this Act is passed.”

**Member's explanatory statement**

This amendment would require that the Act comes into force no later than six months following Royal Assent.

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Kirsty Blackman  
Stephen Flynn

25

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.

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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.

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Seema Malhotra  
Bill Esterson

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.

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Seema Malhotra  
Bill Esterson

NC4

To move the following Clause—

**"Secretary of State and Devolved Administrations Reporting**

- (1) The Secretary of State, Scottish Ministers, Welsh Ministers and Northern Ireland Department of Economy shall each report annually on subsidies and schemes which they have made.
- (2) All reports made under subsection (1) shall be published."

**Member's explanatory statement**

This new clause would require the Secretary of State and Devolved Administrations to report annually on subsidies and schemes they make.

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## 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.

**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:

<b>Date</b>	<b>Time</b>	<b>Witness</b>
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.

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## Notices Withdrawn

The following notices were withdrawn on 2 November 2021:  
NC2

The following notices were withdrawn on 3 November 2021:  
49

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