
Committee Stage: Wednesday 3 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 Any withdrawn amendments are listed at the end of the document.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.

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

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
Bill Esterson

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
Bill Esterson

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
Bill Esterson

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
Bill Esterson

51

☆ Clause 54, page 30, line 26, after "subsection" insert "(5A),"

Member's explanatory statement

This amendment is linked to Amendment 50.

Seema Malhotra 52
Bill Esterson

- ☆ 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
Bill Esterson

- ☆ 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
Bill Esterson

- ☆ 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
Bill Esterson

- ☆ 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
Bill Esterson

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
Bill Esterson

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
Bill Esterson

58

☆ Clause 61, page 34, line 23, after “section 60” insert “, or makes a decision to investigate under section [*Post-award investigations*],”

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
Bill Esterson

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
Bill Esterson

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 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.

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.

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.

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
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.

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.

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

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.
-

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.

Notices Withdrawn

The following notices were withdrawn on 2 November 2021:
NC2
