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Report Stage: Friday 10 December 2021

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## Subsidy Control Bill, As Amended (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 Any withdrawn amendments are listed at the end of the document.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.

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Kirsty Blackman  
Ian Blackford  
Deidre Brock  
Stephen Flynn  
Owen Thompson

NC1

☆ To move the following Clause—

**“Exemption: agriculture**

- (1) The subsidy control requirements in Part 2 of this Act do not apply to—
  - (a) the giving of an agricultural subsidy, or
  - (b) the making of a subsidy scheme, so far as it relates to the giving of agricultural subsidies.
- (2) For the purpose of subsection (1), a subsidy is “agricultural” if it is subject to the provisions of Part IV or Annex 2 of the Agreement on Agriculture.
- (3) 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 new clause exempts agricultural subsidies from the subsidy control requirements.

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Sarah Olney

NC2

☆ To move the following Clause—

**“Annual report on climate change impacts**

- (1) The Secretary of State must once every 12 months lay a report before Parliament setting out the impact of subsidies granted in the preceding 12 months on the environment and climate change.

- (2) Any report under subsection (1) must include an assessment of the impact of subsidies granted in the preceding 12 months on the UK's ability to achieve net-zero emissions by 2050.
- (3) The first report must be laid before Parliament within 12 months of this Act being passed."

#### **Member's explanatory statement**

This new clause would require the Secretary of State to lay an annual report before parliament detailing the climate change impacts of subsidies granted that year.

Seema Malhotra  
Bill Esterson

NC3

☆ To move the following Clause—

#### **"Post-award investigations**

- (1) The CMA may conduct an investigation in relation to a subsidy that has been granted 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 Part 2.
- (3) Where the CMA makes a decision to investigate a subsidy or scheme 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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Kirsty Blackman  
Ian Blackford  
Deidre Brock  
Stephen Flynn  
Owen Thompson

10

- ☆ Clause 10, page 6, line 31, leave out paragraph (a) and insert—

- "(a) is made by—
- (i) a Minister of the Crown,
  - (ii) the Welsh Ministers,
  - (iii) the Scottish Ministers, or
  - (iv) a Northern Ireland department; and"

**Member's explanatory statement**

This amendment allows devolved administrations to make streamlined subsidy schemes.

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Seema Malhotra  
Bill Esterson

18

- ☆ Clause 10, page 6, line 33, at end insert—

"(4A) A streamlined subsidy scheme may be made, in particular, to support areas of relative economic deprivation."

**Member's explanatory statement**

This amendment would allow for streamlined subsidy schemes to be made for the purposes of supporting areas of deprivation.

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Seema Malhotra  
Bill Esterson

19

☆ Clause 11, page 7, line 9, at end insert—

- “(4) Before making regulations 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.
- (5) 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 consent.
- (6) If regulations are made in reliance on subsection (5), 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, the Secretary of State may make the regulations without that consent, but must make a statement to the House of Commons explaining their decision.

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Seema Malhotra  
Bill Esterson

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☆ 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.

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John Penrose 1  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey Julian Knight Tom Tugendhat  
 Nigel Mills Mark Jenkinson

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

**Member’s explanatory statement**

This amendment would reduce the threshold for entering subsidies into the subsidy database from £500,000 to £500.

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John Penrose 2  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey Julian Knight Tom Tugendhat  
 Nigel Mills Mark Jenkinson

Clause 33, page 17, line 24, leave out “one year” and insert “one month”

**Member’s explanatory statement**

This amendment would require subsidies or schemes to be entered in the database within one month of being made, rather than one year, if given in the form of a tax measure.

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Kirsty Blackman 13  
 Ian Blackford  
 Deidre Brock  
 Stephen Flynn  
 Owen Thompson

☆ Clause 33, page 17, line 24, leave out paragraph (a) and insert—

“(a) if given in the form of a tax measure, an entry with a provisional tax deduction value must be entered within one month, and a final value entered within one month of the date of the tax declaration, or”

**Member’s explanatory statement**

This ensures that tax measure subsidies are entered in the subsidy database within one month.

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John Penrose 3  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey                      Julian Knight                      Tom Tugendhat  
 Nigel Mills                        Kirsty Blackman                      Mark Jenkinson

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

**Member's explanatory statement**

This amendment would require subsidies or schemes to be entered in the database within one month of being made, rather than six months, if given in any form other than a tax measure.

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John Penrose 4  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey                      Julian Knight                      Tom Tugendhat  
 Nigel Mills                        Mark Jenkinson

Clause 33, page 17, line 33, leave out "one year" and insert "one month"

**Member's explanatory statement**

See explanatory statement for Amendment 2.

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John Penrose 5  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey                      Julian Knight                      Tom Tugendhat  
 Nigel Mills                        Mark Jenkinson

Clause 33, page 17, line 35, leave out "six months" and insert "one month"

**Member's explanatory statement**

See explanatory statement for Amendment 3.

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John Penrose 6  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey Julian Knight Tom Tugendhat  
 Nigel Mills Mark Jenkinson

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 would require the date a subsidy or scheme was entered onto the database to be included in the information public authorities are required to enter into the database.

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Kirsty Blackman 14  
 Ian Blackford  
 Deidre Brock  
 Stephen Flynn  
 Owen Thompson

☆ 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 subsidies under the minimal financial assistance threshold are entered in the subsidy control database.

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John Penrose 7  
 Kevin Hollinrake  
 Richard Fuller  
 Mr Andrew Mitchell  
 Simon Fell  
 Paul Howell  
 Mark Pawsey Julian Knight Tom Tugendhat  
 Nigel Mills Mark Jenkinson

Clause 36, page 20, line 4, at end insert—

“(7) In this section, the reference to the subsidy control requirements does not include the requirements as to transparency in Chapter 3 of Part 2.”

**Member's explanatory statement**

This amendment requires that "minimal financial assistance" subsidies are not exempt from the database transparency requirements, while remaining exempt from other subsidy control requirements.

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Seema Malhotra 21  
Bill Esterson

- ☆ Clause 41, page 23, line 15, leave out "£14,500,000" and insert "£500"

**Member's explanatory statement**

This amendment would make section 33 applicable to SPEI subsidies worth more than £500.

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Seema Malhotra 22  
Bill Esterson

- ☆ Clause 41, page 23, line 16, leave out subsection (b)

**Member's explanatory statement**

This amendment would make section 33 applicable to SPEI subsidies worth more than £500.

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Seema Malhotra 23  
Bill Esterson

- ☆ Clause 55, page 30, line 40, after "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.

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Seema Malhotra 24  
Bill Esterson

- ☆ Clause 55, page 31, line 2, after "State" insert ", the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland"

**Member's explanatory statement**

This amendment relates to Amendment 23.



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Seema Malhotra  
Bill Esterson

25

- ☆ Clause 55, page 31, line 7, after “State” insert “, the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland”

**Member’s explanatory statement**

This amendment relates to Amendment 23.

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Sarah Olney

9

- ☆ Clause 66, page 37, line 39, leave out paragraphs (a), (b) and (c) and insert—
- “(a) all subsidies and subsidy schemes granted in the past 12 months,  
and
  - (b) an assessment of the extent to which they satisfy the subsidy control principles and the energy and environment principles.
- (2) Any report made under this section must be formally laid before parliament by the Secretary of State.
- (3) The Secretary of State must make an oral statement to the House of Commons when any report under this section is laid.”

**Member’s explanatory statement**

This amendment ensures that the annual report prepared by the CMA includes all subsidies along with its assessment of the extent to which they fulfil the 7 principles set out in the Bill. The report also places a requirement for the Secretary of State to report to Parliament when a report is laid.

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Seema Malhotra  
Bill Esterson

26

- ☆ Clause 68, page 39, line 1, 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 at 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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<hr style="width: 100%;"/> <p>John Penrose Kevin Hollinrake Richard Fuller Mr Andrew Mitchell Simon Fell Paul Howell Mark Pawsey Nigel Mills</p>	<p>Julian Knight Mark Jenkinson</p>	<p>Tom Tugendhat</p>	<b>8</b>
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Clause 70, page 39, line 35, leave out subsection (2)

**Member's explanatory statement**

This amendment intends to allow individual subsidies given under a subsidy scheme to be reviewed, without the requirement for the broader subsidy scheme to be reviewed too.

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<p>Kirsty Blackman Ian Blackford Deidre Brock Stephen Flynn Owen Thompson</p>	<b>12</b>
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☆ Clause 70, page 40, line 16, at end insert—

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

**Member's explanatory statement**

This amendment includes the devolved administrations in the list of those who can apply to the Competition Appeal Tribunal for a review of a subsidy decision.

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<hr style="width: 100%;"/> <p>Seema Malhotra Bill Esterson</p>	<b>27</b>
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☆ Clause 79, page 46, line 3, at end insert—

“(5A) 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.

(5B) 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.

(5C) 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

15

- ☆ Schedule 1, page 51, line 8, after “concerns” insert “and areas of relative economic deprivation”

**Member’s explanatory statement**

This amendment includes areas of relative economic deprivation as an example of the equity rationales that subsidies should address.

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Seema Malhotra  
Bill Esterson

16

- ☆ Schedule 1, page 52, line 6, at end insert—  
“(c) consistency with the United Kingdom achieving its net-zero commitments established under the Climate Change Act 2008.”

**Member’s explanatory statement**

This amendment adds consistency with the UK’s net-zero commitments as a particular consideration for public authorities before deciding whether to give a subsidy.

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Kirsty Blackman  
Ian Blackford  
Deidre Brock  
Stephen Flynn  
Owen Thompson

11

☆ Schedule 1, page 52, line 6, at end insert—

*“Net Zero*

H Subsidies should not normally encourage behaviour which will have a negative effect on the achievement of the UK’s net-zero commitments.”

**Member’s explanatory statement**

This amendment adds a subsidy control principle relating to the UK’s net zero commitments.

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Seema Malhotra  
Bill Esterson

17

☆ Schedule 2, page 52, line 15, at end insert—

“(c) delivering the UK’s net-zero commitments established under the Climate Change Act 2008.”

**Member’s explanatory statement**

This amendment would ensure that subsidies related to energy and the environment incentivise the beneficiary to help deliver the UK’s net-zero commitments.

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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.
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