
Report Stage: Thursday 30 March 2023

Procurement Bill [Lords], As Amended (Amendment Paper)

This document lists all amendments tabled to the Procurement Bill [Lords]. Any withdrawn amendments are listed at the end of the document.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.

★ New Amendments.

New Amendments: 9 to 12 and NC2 to NC7

Sir Iain Duncan Smith
Sarah Champion
Sir Chris Bryant
Tim Loughton
Damian Green
Mr Marcus Fysh
Priti Patel
Bob Blackman
Craig Mackinlay
Ms Marie Rimmer
Wera Hobhouse
Judith Cummins

Bob Seely
Mr Alistair Carmichael
Mr David Davis
Charlotte Nichols
Caroline Lucas

Sir Bernard Jenkin
Richard Drax
Andrew Lewer
Jim Shannon
Henry Smith

NC1

To move the following Clause—

“Removal from the procurement supply chain of physical surveillance equipment produced by companies subject to the National Intelligence Law of the People’s Republic of China

- (1) Within six months of the passage of this Act, the Secretary of State must publish a timeline for the removal from the Government’s procurement supply chain of physical surveillance equipment produced by companies subject to the National Intelligence Law of the People’s Republic of China.
- (2) The Secretary of State must lay the timeline before Parliament.”

Alicia Kearns

NC2

★ To move the following Clause—

“National security: sensitive sectors

The Secretary of State must maintain and publish a list of sectors in relation to which covered procurement is sensitive to national security issues.”

Alicia Kearns

NC3

★ To move the following Clause—

“High Risk list

- (1) A Minister of the Crown must maintain a High Risk list of suppliers in sectors included in the list maintained under section [National security: sensitive sectors].
- (2) The High Risk list must include the name of the supplier and the sector to which it relates.
- (3) A Minister of the Crown—
 - (a) must publish the High Risk list,
 - (b) must keep the High Risk list under review,
 - (c) must lay before Parliament, not later than twelve months after the passage of this Act, and every twelve months thereafter, a statement on the maintenance of the High Risk list over the previous twelve months.
- (4) A supplier may be defined as “High Risk” (and therefore included in the list maintained under subsection (1)) if they operate in a sector included in the list maintained under section [National security: sensitive sectors] and a Minister of the Crown determines that the supplier or a connected person poses a threat to the national security of the United Kingdom.
- (5) For the purposes of this section, “connected person” has the meaning given in paragraph 44 of Schedule 6.”

Alicia Kearns

NC4

★ To move the following Clause—

“High Risk: application for removal

- (1) A supplier may at any time apply to a Minister of the Crown for the removal of an entry in respect of the supplier from the High Risk list.
- (2) The Minister is only required to consider such an application if—
 - (a) in the opinion of the Minister, there has been a material change of circumstances—
 - (i) since the entry was made or, where relevant, revised, or
 - (ii) in a case where the supplier has made a previous application under subsection (1) in relation to the entry or, where relevant, revision, since the most recent application that was considered by the Minister was made, or
 - (b) the application is otherwise accompanied by significant information that has not previously been considered by a Minister of the Crown.”

Alicia Kearns

NC5

★ To move the following Clause—

“Award of contract: High Risk suppliers

A contracting authority may not award a contract to a supplier who is on the High Risk list unless—

- (a) the authority has notified a Minister of the Crown of its intention to make that award, and
- (b) the Minister of the Crown is satisfied that the supplier or (where section 28(4B) applies) a sub-contractor does not pose a threat to the national security of the United Kingdom.”

Alicia Kearns

NC6

★ To move the following Clause—

“Procurement Security Commissioner

- (1) The Secretary of State must appoint a person as the Procurement Security Commissioner (in this Chapter “the Commissioner”).
- (2) The Commissioner is to have the following functions—
 - (a) reviewing the High Risk list and making recommendations for the addition or removal of suppliers;
 - (b) providing advice about the High Risk list to contracting authorities.
- (3) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment; and the Secretary of State may pay in respect of the Commissioner any expenses, remuneration or allowances that the Secretary of State may determine.
- (4) The Secretary of State may, after consultation with the Commissioner, provide the Commissioner with—
 - (a) such staff, and
 - (b) such accommodation, equipment and other facilities as the Secretary of State considers necessary for the carrying out of the Commissioner’s functions.”

Alicia Kearns

NC7

★ To move the following Clause—

“Reports by Commissioner

- (1) As soon as reasonably practicable after the end of each reporting period—
 - (a) the Commissioner must—

- (i) prepare a report about the exercise by the Commissioner during that period of the functions of the Commissioner, and
 - (ii) give a copy of the report to the Secretary of State;
 - (b) the Secretary of State must lay a copy of the report before Parliament, and the Commissioner must publish the report.
- (2) The reporting periods are—
- (a) the period—
 - (i) beginning with the first appointment as Commissioner and—
 - (ii) ending with the next 31 March or, if the period ending with that date is 6 months or less, ending with the next 31 March after that date, and
 - (iii) each succeeding period of 12 months.”

Member’s explanatory statement

This new clause refers to the Procurement Security Commissioner established under NC6.

Richard Burgon

4

Clause 19, page 13, line 31, at end insert—

- “(aa) must disregard any tender from a supplier that does not guarantee the payment of at least the Real Living Wage to all its own employees and contracted staff and those of any sub-contractors;”

Member’s explanatory statement

This amendment, together with Amendments 5 to 8, is designed to ensure that no public contract can be let unless the supplier guarantees the payment of the Real Living Wage to all those involved in the delivery of the contract.

Alicia Kearns

9

★ Clause 28, page 19, line 33, at end insert “or on the High Risk list.”

Member’s explanatory statement

This amendment would require contracting authorities to ascertain whether sub-contractors are on the High Risk list (see NC3).

Alicia Kearns

10

- ★ Clause 28, page 19, line 36, at end insert “or on the High Risk list.”

Member’s explanatory statement

This amendment would enable contracting authorities to request information for the purpose of ascertaining whether sub-contractors are on the High Risk list (see NC3).

Alicia Kearns

11

- ★ Clause 28, page 20, line 7, at end insert—

“(4A) If, after requesting information under subsection (1) or (2), a contracting authority considers that a supplier intends to sub-contract to a supplier that is on the High Risk list, a contracting authority must—

- (a) notify the supplier of that fact, and
- (b) give the supplier reasonable opportunity to find an alternative supplier with which to sub-contract.

(4B) Where—

- (a) a contracting authority has taken the steps in paragraphs (a) and (b) of subsection (4A), and
- (b) the supplier has not found an alternative supplier with which to sub-contract which is not on the High Risk list,

section [Award of contract: High Risk suppliers] applies as if the supplier were on the High Risk list.”

Member’s explanatory statement

This amendment would mean that contracting authorities could not award a contract if a supplier intended to sub-contract to a supplier which was on the High Risk list unless a Minister of the Crown was satisfied that the sub-contractor did not pose a threat to the national security of the UK (see NC4).

Alicia Kearns

12

- ★ Clause 28, page 20, line 16, leave out “and (4)” and insert “to (4B)”

Member’s explanatory statement

This amendment is consequential on Amendment 11.

Richard Burgon

5

Clause 41, page 28, line 26, at end insert—

“(3A) A contracting authority may not award a contract under this section to a supplier that does not guarantee the payment of at least the Real Living Wage to all its own employees and contracted staff and those of any sub-contractors.”

Member’s explanatory statement

See explanatory statement to Amendment 4.

Sarah Olney

1

Clause 42, page 29, line 14, at end insert—

“(3A) Provision under subsection (1) must not confer any preferential treatment on suppliers connected to or recommended by members of the House of Commons or members of the House of Lords.”

Member’s explanatory statement

This amendment is intended to prevent the future use of “VIP lanes” for public contracts.

Richard Burgon

6

Clause 43, page 30, line 3, at end insert—

“(5A) A contracting authority may not award a contract under subsection (1) to a supplier that does not guarantee the payment of at least the Real Living Wage to all its own employees and contracted staff and those of any sub-contractors.”

Member’s explanatory statement

See explanatory statement to Amendment 4.

Angela Rayner
Florence Eshalomi

2

Clause 44, page 30, line 16, at end insert—

“(4) Any Minister of the Crown, Member of Parliament, Member of the House of Lords or senior civil servant involved in recommending a supplier for a contract under section 41 or 43 must make a public declaration to the Cabinet Office of any private financial interest in that supplier within 10 working days.”

Member’s explanatory statement

This amendment would implement a recommendation by the National Audit Office that any contracts awarded under emergency provisions or direct awards should include transparency declarations.

Richard Burgon

7

Clause 45, page 31, line 6, at end insert—

“(aa) permit the award of a public contract to a supplier that does not guarantee the payment of at least the Real Living Wage to all its own employees and contracted staff and those of any sub-contractors.”

Member’s explanatory statement

See explanatory statement to Amendment 4.

Richard Burgon

8

Clause 122, page 82, line 5, at end insert—

““Real Living Wage” means the hourly wage rates for London and for outside London calculated annually by the Resolution Foundation and overseen by the Living Wage Commission (or their successor bodies);”

Member’s explanatory statement

This amendment inserts a definition of the Real Living Wage for the purposes of Amendments 4 to 7.

Ms Marie Rimmer

3

Schedule 7, page 116, line 10, at end insert—

“Involvement in forced organ harvesting

14A(1) A discretionary exclusion ground applies to a supplier if a decision-maker determines that the supplier or a connected person has been, or is, involved in—

- (a) forced organ harvesting,
 - (b) unethical activities relating to human tissue, including anything which involves the commission of an offence under sections 32 (prohibition of commercial dealings in human material for transplantation), 32A (offences under section 32 committed outside UK) or 33 (restriction on transplants involving a live donor) of the Human Tissue Act 2004, or under sections 20 (prohibition of commercial dealings in parts of a human body for transplantation) or 20A (offences under section 20 committed outside UK) of the Human Tissue (Scotland) Act 2006, or
 - (c) dealing in any device or equipment or services relating to conduct mentioned in paragraphs (a) or (b).
- (2) “Forced organ harvesting” means killing a person without their consent so that their organs may be removed and transplanted into another person.”

Member’s explanatory statement

This amendment is designed to give a discretionary power to exclude suppliers from being awarded a public contract who have participated in forced organ harvesting or unethical activities relating to human tissue, including where they are involved in providing a service or goods relating to such activities.

Order of the House

[9 January 2023]

That the following provisions shall apply to the Procurement Bill [Lords]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 23 February 2023.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and on 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 those proceedings 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.

Programming committee

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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