

Enterprise Bill [HL]

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 22nd October 2015, as follows –

Clauses 4 to 13	Clauses 18 to 26
Schedule 2	Schedule 4
Clauses 14 to 17	Clauses 27 to 31
Schedule 3	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 4

LORD MENDELSON
LORD STEVENSON OF BALMACARA

- 16** Page 4, line 27, at end insert –
“() A complaint under subsection (3) may be made anonymously.”
- 17** Page 4, line 40, leave out subsection (5)

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

- 18** Page 5, line 27, at end insert –
““small or medium sized business” has the meaning given by section 7(1) of the Small Business, Enterprise and Employment Act 2015.”

**Amendment
No.**

Clause 5

LORD STONEHAM OF DROXFORD

19 Page 5, line 30, at end insert—

“() In conducting activity under this section, the Commissioner must take all reasonable steps not to identify the complainant, unless the complainant consents.”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

20 Page 5, line 35, at end insert—

“() Where the respondent fails to provide information voluntarily, the Commissioner has the authority to investigate and enforce compliance with information requests on contract terms.”

21 Page 5, line 37, at end insert—

“() In support of a complaint being determined under the SBC complaints scheme, the following bodies may provide information or answer questions during the course of the Commissioner’s investigations—

- (a) government departments;
- (b) local authorities;
- (c) public sector bodies;
- (d) companies.”

22 Page 5, line 44, at end insert—

“() A recommendation made under subsection (6) may be that the complainant and respondent enter mediation to resolve their dispute.

() Where a party declines mediation the relevant party shall provide an outline to the Commissioner on costs relating to litigation.”

LORD STONEHAM OF DROXFORD

23 Page 6, line 9, leave out subsection (11)

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON
LORD STONEHAM OF DROXFORD

24 Page 6, line 10, at end insert—

“() On the advice of the Commissioner, courts may declare an unfair contract term void.”

Clause 6

LORD STONEHAM OF DROXFORD

25 Page 6, line 12, leave out “may” and insert “must”

26 Page 6, line 15, at end insert “but such a report must identify the respondent”

Amendment
No.**Clause 6** – *continued*

27 Page 6, leave out lines 16 to 18

28 Page 6, line 23, leave out subsection (4)

29 Page 6, line 27, at end insert –

- “() Where a report contains one or more recommendations as to the steps that ought to be taken by the respondent to remedy, resolve or mitigate any issue which is the subject of the complaint, or to prevent a similar issue from arising in future, and the Commissioner considers the recommendations relate to a relevant function, the Commissioner may send a copy of the report to the Competition and Markets Authority.
- () In this section “relevant function” means a function of the Competition and Markets Authority as set out in Part 3 of and Schedule 5 to the Enterprise and Regulatory Reform Act 2013.”

After Clause 6LORD MENDELSON
LORD STEVENSON OF BALMACARA

30 Insert the following new Clause –

“Small business access to finance

Where the Commissioner identifies thematic and systemic complaints relating to small business access to finance, the Commissioner may make recommendations to the Secretary of State for the provision of measures to encourage small business access to finance.”

LORD STONEHAM OF DROXFORD

31 Insert the following new Clause –

“Repeated complaints: late payments

- (1) Where –
- (a) the Commissioner determines that a particular respondent has been the subject of repeated complaints relating to the late payment of invoices,
 - (b) the Commissioner has considered the complaints and made a determination which has included recommendations to the respondent, and
 - (c) the respondent has repeatedly failed to make changes recommended by the Commissioner,
- the Commissioner may request that the Secretary of State propose a fine on the respondent.
- (2) Where a request is made by the Commissioner under subsection (1), the Secretary of State must issue a fine to the relevant respondent unless the Secretary of State considers such a fine would be damaging to the long-term viability of the respondent’s business.

Amendment
No.

After Clause 6 – continued

- (3) The Secretary of State may by regulation make further provision for the effective functioning of this section including, but not limited to –
- (a) the definition of “repeated complaints”,
 - (b) the maximum level of fine that may be levied,
 - (c) whether a different maximum level should be prescribed based on the size of the respondent’s business, and
 - (d) the test by which the Secretary of State should consider the long-term viability of the business.
- (4) Regulations under this section shall be made by statutory instrument, and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Clause 7

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

32 Page 7, line 24, leave out sub-paragraph (vii)

Clause 8

LORD MENDELSON
LORD STEVENSON OF BALMACARA

33 Page 8, line 32, at end insert –

- “(3) The Commissioner must ensure that all information provided by complainants, litigants and other parties against respondents is handled with confidentiality.
- (4) The Commissioner must not release the information outlined in subsection (3) without the consent of the complainant, litigant or relevant party.”

After Clause 8

LORD MENDELSON
LORD STEVENSON OF BALMACARA

34 Insert the following new Clause –

“Power to facilitate group litigation or representative action

- (1) The Small Business Commissioner may facilitate group litigation or representative action taken by a number of small business claimants in a case where a number of small businesses have complaints against the same company which share common characteristics.
- (2) The complaints outlined in subsection (1) must be found to be legitimate and must not have been dismissed prior to the Commissioner initiating group litigation or representative action.”

Amendment
No.

Clause 9

LORD HODGSON OF ASTLEY ABBOTTS

- 35 Page 8, line 37, at end insert “including details of any visits to the different regions of the United Kingdom”

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

- 36 Page 8, line 42, at end insert—
“(d) outlines a summary of relevant complaints made by—
(i) small businesses against other businesses, and
(ii) small businesses against government departments.
(1A) In subsection (1)(d), “relevant complaints” has the meaning given by section 4(3) and (4).”

- 37 Page 9, line 3, leave out subsection (3) and insert—
“(3) The Commissioner must lay a copy of the Report before both Houses of Parliament.”

Clause 10

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

- 38 Page 9, line 26, at end insert—
“() The Commissioner may assist other branches and agencies of government to develop legislation, government procedures and administration that provide alternative ways in which small businesses can comply with the requirements of the legislation, procedures and administration.”

Clause 11

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

The above-named Lords give notice of their intention to oppose the Question that Clause 11 stand part of the Bill.

Amendment
No.

After Clause 12

LORD ABERDARE

39 Insert the following new Clause –

“Payment practices: protection of retention monies in the construction industry

- (1) The Secretary of State shall arrange a review of the practice in the construction industry of withholding monies which would otherwise be due under a contract, the effect of which is to provide the paying party with security for the current and future performance by the party carrying out construction operations of any or all of the latter’s obligations under the contract (“retention monies”).
- (2) The review shall make recommendations regarding –
 - (a) the maximum period of time for which retention monies can be withheld; and
 - (b) the most effective mechanism for protecting retention monies against the risk of the paying party becoming insolvent.
- (3) The review shall be completed by the end of the period of 9 months beginning with the day on which this Act is passed.
- (4) On completion of the review the Secretary of State shall lay a copy of the report of the review before each House of Parliament.
- (5) Within the period of 18 months following completion of the review the Secretary of State shall by regulations implement the recommendations in the review.”

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON

40 Insert the following new Clause –

“Small businesses and consumer rights legislation

- (1) Businesses with fewer than ten employees and which are purchasing goods or services for use within their commercial activities will be considered consumers with regards to the protections provided by the Consumer Rights Act 2015.
- (2) Businesses with fewer than ten employees and which are purchasing goods or services for use within their commercial activities will be considered consumers for the purposes of the Alternative Dispute Resolution for Consumer Disputes Regulations 2015.”

Amendment
No.

After Clause 12—continued

LORD MENDELSON
LORD STEVENSON OF BALMACARA
LORD STONEHAM OF DROXFORD

41 Insert the following new Clause—

“Companies: payment terms with suppliers

- (1) On the advice of the Commissioner, the Secretary of State may make regulations—
 - (a) imposing a limit on the number of days after receipt of a supplier’s invoice a company can seek to challenge that invoice,
 - (b) prohibiting the practice of a company seeking to change the payment terms of a supplier company unilaterally, and
 - (c) prohibiting a company from requiring a supplier company to make a payment in order to join that company’s list of suppliers.
- (2) The regulations may make provision for a prescribed breach by a prescribed description of person of a requirement or prohibition imposed by the regulations to be an offence punishable on summary conviction—
 - (a) in England and Wales by a fine;
 - (b) in Scotland or Northern Ireland, by a fine not exceeding level 5 on the standard scale.
- (3) The regulations may specify the size of company and supplier company to which they will apply.
- (4) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (5) Regulations under this section shall be made by statutory instrument, and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) For the purposes of this section “company” has the meaning given by section 1(1) of the Companies Act 2006.”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

42 Insert the following new Clause—

“Duty to pay: private sector

- (1) Companies in the private sector are required to settle all outstanding payments owed to their small business suppliers by the date originally agreed to in the contract terms.
- (2) Where companies fail to make payments to their small business suppliers on time, it is a requirement that companies provide quarterly reports to the Small Business Commissioner relating to late payment of invoices.

Amendment
No.

After Clause 12—continued

- (3) The report in subsection (2) must contain, but need not be limited to, the following information—
- (a) lists of all payments to suppliers which were made over 28 days after the date indicated by the suppliers' agreed payment terms, without a formal query having been registered with the suppliers within a period as may be prescribed; and
 - (b) confirmation, for each instance listed under paragraph (a), that interest, equalling the Bank of England base rate plus 8% APR, was paid to compensate the supplier for overdue payment; or
 - (c) assurance, for each instance listed under paragraph (a) where confirmation of compensation under paragraph (b) cannot be provided, of a payment plan in place to compensate suppliers on the basis set out in that paragraph."

43 Insert the following new Clause—

“Duty to pay: public sector

- (1) Public sector bodies are required to settle all outstanding payments owed to their small business suppliers by the date originally agreed to in the contract terms.
- (2) Where public sector agencies fail to make payments to their small business suppliers on time, it is a requirement that they provide quarterly reports to the Small Business Commissioner relating to late payment of invoices.
- (3) The report in subsection (2) must contain, but need not be limited to, the following information—
 - (a) lists of all payments to suppliers which were made over 28 days after the date indicated by the suppliers' agreed payment terms, without a formal query having been registered with the suppliers within a period as may be prescribed; and
 - (b) confirmation, for each instance listed under paragraph (a), that interest, equalling the Bank of England base rate plus 8% APR, was paid to compensate the supplier for overdue payment; or
 - (c) assurance, for each instance listed under paragraph (a) where confirmation of compensation under paragraph (b) cannot be provided, of a payment plan in place to compensate suppliers on the basis set out in that paragraph."

LORD STEVENSON OF BALMACARA
LORD MENDELSON

44 Insert the following new Clause—

“Duty to report outstanding interest payments on unpaid invoices

- (1) A company with outstanding liabilities relating to overdue payments at the end of an accounting period must record these in their statutory accounts.
- (2) Where any of the outstanding liabilities include interest on overdue payments, the company must disclose these amounts by way of a note to the accounts, which should also record comparable outstanding liabilities, if any, for the preceding six financial years.

Amendment
No.

After Clause 12—continued

- (3) Where companies fail to disclose this information during the course of an audit, their auditors are required to report that failure to the Small Business Commissioner, and may comment on the issue of their audit report.”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

45 Insert the following new Clause—

“Invoice payment terms

Companies’ invoice payment terms cannot exceed more than 30 days.”

LORD STEVENSON OF BALMACARA
LORD MENDELSON
LORD STONEHAM OF DROXFORD

46 Insert the following new Clause—

“Payment practices: retention of monies

- (1) The Secretary of State may by regulations impose requirements on certain companies to publish information about their policies, practices and performance in holding, safeguarding and releasing sums withheld by, or in behalf of, a payer from monies which would otherwise be due under a contract, the effect of which would provide the payer with security for the current and future performance by the payee of any or all of the payee’s obligations under the contract (“retention monies”).
- (2) The regulations under subsection (2) may prescribe—
- (a) the companies, or type of companies, to which the regulations apply;
 - (b) the information required to be published;
 - (c) the intervals at which, and format and manner in which, publication must take place; and
 - (d) the type of description of contractual provision to which the regulations apply.
- (3) The restrictions on regulations in subsection (3) of section 3 of the Small Business, Enterprise and Employment Act 2015 shall apply to regulations made under subsection (1) of this section.
- (4) The Secretary of State shall arrange a review of the operation of the type of contractual provisions mentioned in subsection (1) after a period of 18 months following the coming into force of the first regulations made under subsection (1), and the Secretary of State shall lay a copy of the report of the review before each House of Parliament.
- (5) The review provided for under subsection (3) may make recommendations for requirements and obligations to be imposed upon certain types or descriptions of companies in relation to the practice of retaining monies as described in subsection (1).

Amendment
No.

After Clause 12—continued

- (6) After public consultation, the Secretary of State may by regulations impose such requirements and obligations on prescribed companies as were recommended by the review, in whole or in part, and with such amendments as the Secretary of State believes to be required in order to—
- (a) ensure that the practice of withholding retention monies does not give rise to unfair treatment of payees;
 - (b) provide assurance that retention monies are held securely; and
 - (c) ensure that the position of a payee company from whom retention monies are being withheld is protected when a payer company becomes insolvent.”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

47 Insert the following new Clause—

“Support for growth of enterprise

The Secretary of State may publish information, or give advice to small businesses, about the availability of Early Investment Scheme tax relief for institutional investors who wish to invest in early stage small businesses.”

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON

48 Insert the following new Clause—

“Goods sold to small businesses under rent-to-buy agreements and conditional sales contracts

- (1) This section applies to a contract under which a small business purchases goods from a trader under—
 - (a) a hire-purchase agreement (as defined in section 7 of the Consumer Rights Act 2015),
 - (b) a conditional sales contract (as defined in section 5(3) of the Consumer Rights Act 2015).
- (2) The trader—
 - (a) must provide information and adequate explanations to the small business before a contract is made, which would allow the small business to compare the total sum that he or she would pay under that contract and a representative retail price for the goods;
 - (b) must not require the small business to purchase an insurance policy which is sold or brokered by the trader as a condition of entering into a contract.
- (3) Within 12 months of the passing of this Act, the Secretary of State shall, by regulations made by statutory instrument—
 - (a) specify steps that a trader must take before taking action to enforce rights under a contract or to take possession of the goods;
 - (b) specify steps that a trader must take before a contract is made to ensure that that contract is affordable and appropriate for the small business.”

**Amendment
No.**

Clause 13

LORD STEVENSON OF BALMACARA
LORD MENDELSON

- 48A** Page 10, line 32, at end insert –
- “() In subsection (2), after “means” insert “–
- (a) all regulatory provisions made under section 2(2) of the European Communities Act 1972,
 - (b) regulatory provisions which are subject to the affirmative resolution procedure in both Houses of Parliament, and
 - (c) ”.”
- 48B** Page 10, line 32, at end insert –
- “() Omit subsection (4).”
- 48C** Page 10, line 40, after “State” insert “, but those regulations cannot specify the Equality and Human Rights Commission”
- 48D** Page 11, line 20, at end insert –
- “() Section 21 of the Small Business, Enterprise and Employment Act 2015 is amended as follows.
- () For subsection (3)(b) substitute –
 - “(b) the independent body, as provided for by section 25, must publish a methodology to be used for assessing the economic impact mentioned in subsection (1)(a).”
- 48E** Page 11, line 20, at end insert –
- “() In section 23 of the Small Business, Enterprise and Employment Act 2015 (duty on Secretary of State to publish reports) after subsection (3)(f) insert –
- “(g) a list of all the impact assessments that relate to the regulatory provisions for which a list is required under subsection (3)(f), including the names of the authorising Ministers, the names of the Senior Responsible Owners for quality assurance, and the assessments of the independent body.”
- 48EA★** Page 11, line 20, at end insert –
- “() In section 21 of the Small Business, Enterprise and Employment Act 2015 (duty on Secretary of State to publish business impact target etc), at the end of subsection (2) insert “and must consist of –
- (a) a nominal component, reflecting the total number of regulations, and
 - (b) a monetary component, reflecting the discounted cash flow.”

Amendment
No.

After Clause 13

LORD STEVENSON OF BALMACARA
LORD MENDELSON

48EB★ Insert the following new Clause –
“Regulatory Policy Committee duty to consider regulatory proposals affecting business

The Regulatory Policy Committee shall have a duty to –

- (a) scrutinise the evidence base for all regulatory proposals submitted by public sector bodies which affect the business sector,
- (b) validate the costs and savings to public sector bodies for all regulatory proposals which affect the business sector, and
- (c) provide the Government with independent assurance that it has properly considered alternatives to new regulations and that it is minimising the effects of regulations created by public sector bodies on small businesses in particular.”

Clause 14

LORD STEVENSON OF BALMACARA
LORD MENDELSON

48F Page 11, line 37, at end insert “or the Equality and Human Rights Commission”

48G Page 11, line 42, at end insert –
“() of the measures adopted by the relevant regulator to simplify the regulatory making process in a manner which is comprehensible to small businesses, where regulations have an impact on small businesses, and
() of measures taken to promote awareness of regulations which affect small businesses;”

48H Page 11, line 42, at end insert –
“() an assessment of how the relevant regulator’s regulatory provisions contribute to and improve productivity; and”

LORD HODGSON OF ASTLEY ABBOTTS

49 Page 12, line 3, at end insert –
“(c) details of the activities, including the costs, of any organisation employed to undertake work on behalf of the regulator”

THE EARL OF KINNOULL

49ZA★ Page 12, line 3, at end insert –
“() In gathering information for the purposes of making the assessment provided for under subsection (4)(a), the relevant regulator must ensure that a mechanism is provided to enable the persons carrying on businesses to submit comments anonymously.”

Amendment
No.

Clause 14 – continued

LORD STEVENSON OF BALMACARA
LORD MENDELSON

49A Page 12, line 33, at end insert –

“() A relevant regulator must give to the Small Business Commissioner any information that the Commissioner may from time to time request which relates to regulatory provisions and their impact on small businesses.”

After Clause 14

LORD STEVENSON OF BALMACARA
LORD MENDELSON

49B Insert the following new Clause –

“Report on money laundering regulations

- (1) The Small Business Commissioner shall prepare and publish a report assessing a regulator’s performance and effectiveness at ensuring regulations are proportionate, user friendly, widely promoted and easily adapted by small businesses in relation to money laundering regulations.
- (2) The report provided for by subsection (1) must include an assessment of the role of the Financial Conduct Authority and its activities to encourage awareness of the impact of money laundering regulations on small businesses.
- (3) In this section a regulator is a person with regulatory functions to which section 108 of the Deregulation Act 2015 applies.”

After Clause 15

LORD STEVENSON OF BALMACARA
LORD MENDELSON

49C Insert the following new Clause –

“Disapplication of section 108 of the Deregulation Act 2015 to the Equality and Human Rights Commission

Section 108 of the Deregulation Act 2015 does not apply to the regulatory functions of the Equality and Human Rights Commission.”

Amendment
No.

After Clause 15 – continued

THE EARL OF KINNOULL

49CA★ Insert the following new Clause –

“Duty to report on effect of European Union directives

- (1) A person with regulatory functions to which section 108 of the Deregulation Act 2015 applies (a “regulator”) must prepare and publish a report, within 12 months of the passing of this Act, on the relation of any regulations which derive from European Union directives and for which it is responsible to those underlying directives, and their impact on businesses as set out in subsections (2) and (3).
- (2) In preparing the report provided for under subsection (1), the regulator must seek views from persons carrying on businesses about any areas where regulations for which it is responsible and which derive from European Union directives are considered, by those persons, to go beyond the requirements of the European Union directive to which they relate and, in so doing, have a detrimental effect on the conduct of their business.
- (3) Following such consultation, the regulator must examine the European Union directives from which regulations for which it is responsible are derived, and form a view on whether those regulations go beyond the requirements of those directives unjustifiably and in such a way as to have a detrimental effect on the conduct of business, and include its findings in its report.”

Clause 17

LORD MENDELSON
LORD STEVENSON OF BALMACARA

The above-named Lords give notice of their intention to oppose the Question that Clause 17 stand part of the Bill.

After Clause 17

LORD MENDELSON
LORD STEVENSON OF BALMACARA

49D Insert the following new Clause –

“Awareness of share sale fraud etc.

A regulated person as defined by Part 2 of the Regulatory Enforcement and Sanctions Act 2008 shall promote awareness amongst small businesses of the risks associated with share sale, boiler room, hedge fund or bond fraud operations through measures including but not limited to –

- (a) signposting to the Financial Services Register, and
- (b) increasing awareness of methods of verifying the identity of an authorised firm by asking for their firm reference number and contact details.”

Amendment
No.

Clause 18

BARONESS SHARP OF GUILDFORD
LORD STONEHAM OF DROXFORD

49E Page 33, line 42, at end insert –

- “() The apprenticeship targets set for prescribed public bodies under subsection (1) may include apprenticeship agreements entered into by sub-contractors working for the prescribed public body.
- () The prescribed public body may in turn set apprenticeship targets for their sub-contractors.”

49F Page 34, line 3, at end insert –

- “() An apprenticeship target shall specify what proportion of the number referred to in subsection (2) is to be reserved for apprenticeships for young people –
- (a) who were looked after children; and
- (b) who need help with physical or learning disabilities.”

LORD STONEHAM OF DROXFORD
LORD HODGSON OF ASTLEY ABBOTTS
BARONESS SHARP OF GUILDFORD
BARONESS WARWICK OF UNDERCLIFFE

50 Page 34, leave out lines 30 to 32

BARONESS SHARP OF GUILDFORD
LORD STONEHAM OF DROXFORD

50A Page 34, line 32, at end insert –

““sub-contractors” means any person or body corporate who supplies goods or services to the prescribed public body”

50B Page 35, line 42, at end insert –

“A10A Public sector support to help establish apprenticeships in small businesses

- (1) The Secretary of State, acting in conjunction with the Small Business Commissioner, may by regulations require a prescribed public body to provide arrangements which facilitate small businesses (as defined in section 2 of the Enterprise Act 2015) entering into apprenticeship agreements.
- (2) The arrangements specified in subsection (1) may require the prescribed public body to provide resources on an interim basis to help the small businesses establish a joint body to oversee and manage the negotiation of apprenticeship agreements which meet the conditions set out in section A1(3)(a) and (b), and to ensure that the terms of the agreements are adhered to.
- (3) Any resources provided under the terms of subsection (2) shall be for a specified period.”

Amendment
No.

Clause 19

LORD STONEHAM OF DROXFORD
BARONESS SHARP OF GUILDFORD

51 Page 36, line 10, at end insert –

“() In describing an apprenticeship that is a statutory apprenticeship scheme, P must also stipulate whether the apprenticeship is a higher level apprenticeship or not.”

BARONESS SHARP OF GUILDFORD
LORD STONEHAM OF DROXFORD

51A Page 37, line 1, leave out “weights and measures authority” and insert “enterprise partnership”

After Clause 19

LORD STONEHAM OF DROXFORD
BARONESS SHARP OF GUILDFORD

52 Insert the following new Clause –

“Review of state support for apprenticeships

- (1) Within 12 months of the coming into force of this Part, the Secretary of State must publish a report on –
 - (a) the level of government support provided to fund apprenticeship schemes in England and Wales,
 - (b) the impact of funding apprenticeships on private sector enterprise, and
 - (c) the levels of apprenticeship starts and age of those entering into apprenticeships.
- (2) A report under subsection (1) must include, in particular, analysis of the impact of placing a levy on business to fund apprenticeships.
- (3) The report to be published under subsection (1) must be laid before each House of Parliament.”

Clause 20

THE EARL OF KINNOULL

52A★ Page 37, line 40, after “insurance” insert “except an excluded contract”

52B★ Page 37, line 41, leave out from “must” to end of line 25 on page 38 and insert “not deliberately or recklessly fail to pay, within a reasonable time, any sums due in respect of the claim.

- () A failure to pay a sum due in respect of the claim is –
 - (a) deliberate only if the insurer knew that the sum was due, but nonetheless decided not to pay it in a reasonable time;

**Amendment
No.**

Clause 20—*continued*

- (b) reckless only if the insurer did not care whether or not the sum was due, and therefore decided not to pay it in a reasonable time.
- () The insurer shall always have a reasonable time in which to investigate and assess the claim (whether as to any liability to pay in respect of the claim, or as to the amount of any sum payable).
- () In this section, “a claim under the contract” does not include any claim for breach of the term implied by subsection (1).
- () Remedies (for example, damages) available for breach of the term implied by subsection (1) are in addition to and distinct from—
 - (a) any right to enforce payment of the sums due, and
 - (b) any right to interest on those sums (whether under the contract, under another enactment, at the court’s discretion or otherwise).
- () This section does not affect any other implied term of the contract of insurance relating to the time of payment.
- () Nothing in this Act shall alter any rule of law according to which, in any contract of insurance, the insurer’s promise is to hold the insured harmless against loss caused by an insured peril, the breach of which gives rise to an action for unliquidated damages.”

52C★ Page 38, line 25, at end insert—

- “() For the purposes of this section, “excluded contract” means—
 - (a) an insurance contract covering a large risk as defined in article 13(27) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009,
 - (b) a contract of reinsurance.”

Clause 21

THE EARL OF KINNOULL

52D★ Page 38, line 35, leave out from beginning to end of line 8 on page 39 and insert—

- “() A term of an insurance contract, or of any other contract, which would put the insured in a worse position as respects any of the matters provided for in section 13A than the insured would be in by virtue of the provisions of that section is to that extent of no effect.”

52E★ Page 39, line 12, leave out subsection (2)

Amendment
No.

After Clause 25

BARONESS NEVILLE-ROLFE

- 53 Insert the following new Clause –
“UK Green Investment Bank
 Omit Part 1 of the Enterprise and Regulatory Reform Act 2013 (UK Green Investment Bank).”

Clause 26

BARONESS DONAGHY

- 53A Page 44, line 9, leave out “£95,000” and insert “£145,000”

LORD WILLS
LORD LOW OF DALSTON

- 54 Page 44, line 9, at end insert “except in the case of exit payments for potential claims under Part IVA of the Employment Rights Act 1996 (protected disclosures)”

BARONESS DONAGHY

- 54A Page 44, line 9, at end insert “, which amount shall be subject to annual re-evaluation”
- 54B Page 44, line 9, at end insert “except where exit payments are made under existing public service agreements”
- 54C Page 44, leave out lines 22 to 24
- 54D Page 44, line 39, at end insert “, including cases relating to those employees earning less than £30,000 per year”
- 54E Page 44, line 39, at end insert “, including cases relating to those employees earning less than £35,000 per year”
- 54F Page 44, line 39, at end insert “, including cases relating to those employees earning less than £40,000 per year”
- 54G Page 44, line 39, at end insert “, including any period of institutional reorganisation being implemented within two years of the passing of this Act”

LORD WILLS
LORD LOW OF DALSTON

- 55 Page 47, line 30, at end insert –
“153D Reporting and referral mechanisms to be included in regulations under section 153A
 (1) The Secretary of State shall by regulation make provision in relation to restrictions imposed by section 153A where the exit payment relates to a potential claim under Part 1VA of the Employment Rights Act 1996 (protected disclosures).

Amendment
No.

Clause 26 – *continued*

- (2) Regulations under subsection (1) shall –
- (a) provide for the creation of a regulatory referral system, to apply where an exit payment relates to a potential claim under Part 1VA of the Employment Rights Act 1996, in circumstances where –
 - (i) the Minister of the Crown as described in section 153C considers it appropriate; and
 - (ii) there has been suspected or likely wrongdoing, malpractice, health and safety risk, breach of law or regulation; and
 - (b) provide that any individual who is subject to an exit payment as described in subsection (1) shall have access to legal advice on section 43J of the Employment Rights Act 1996.
- (3) The Secretary of State or the Treasury shall periodically produce guidance on exit payments made in accordance with section 153D(1) for relevant public sector employees as described in section 153A(2).”

BARONESS DONAGHY

Baroness Donaghy gives notice of her intention to oppose the Question that Clause 26 stand part of the Bill.

Clause 29

LORD STEVENSON OF BALMACARA
LORD MENDELSON

- 56 Page 48, line 22, at end insert “notwithstanding that section 13 and regulations made under it shall not have retrospective effect”
- 57 Page 48, line 36, at end insert “notwithstanding that section 13 and regulations made under it shall not have retrospective effect”

Enterprise Bill [HL]

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

27th October 2015

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