

Enterprise Bill [HL]

THIRD
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 –

Schedule 3	Clauses 27 to 31
Clauses 18 to 26	Title
Schedule 4	

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 18

LORD STEVENSON OF BALMACARA
LORD MENDELSON

49DA★ Page 33, leave out lines 41 and 42

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.”

LORD STEVENSON OF BALMACARA
LORD MENDELSON

49EA★ Page 33, line 42, at end insert –

- “() The Secretary of State may by regulations set apprenticeship targets for all companies established or operating within the United Kingdom.”

Amendment
No.

Clause 18—*continued*

49EB★ Page 34, line 1, leave out “, is a target relating to the number of persons (“apprentices”)” and insert “and company, is a target relating to the number of persons (“apprentices”) in high quality and high level skill apprenticeships”

BARONESS SHARP OF GUILDFORD
LORD STONEHAM OF DROXFORD

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 STEVENSON OF BALMACARA
LORD MENDELSON

49G★ Page 34, line 11, at end insert—

“() The Secretary of State may by regulations require a public body or private body to pay the living wage to those who have an apprenticeship.”

49H★ Page 34, line 20, at end insert—

“() The Secretary of State may by regulations require apprenticeship training to be in place for managers who supervise the apprenticeship programme of the relevant public body or company.”

49J★ Page 34, line 20, at end insert—

“() One year after this section comes into force, the Secretary of State shall publish a report on the impact of any apprenticeships levy associated with the new target in subsection (1) on the—
(a) quantity and quality of the apprenticeship scheme offered by public bodies and companies, and
(b) the impact on existing funding for training designed for non-apprenticeship trainees.”

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”

Amendment
No.

Clause 18 – *continued*

LORD HODGSON OF ASTLEY ABBOTTS

50AA Page 34, line 32, at end insert –

- “() The Secretary of State must, as soon as possible and no later than 12 months after the day on which this Act is passed, make regulations specifying further minimum standards for an apprenticeship agreement within the meaning of subsection (7).
- () The Secretary of State must consult such persons as the Secretary of State considers appropriate on the details of such regulations, prior to publication.”

LORD STEVENSON OF BALMACARA
LORD MENDELSON

50AB★ Page 34, line 34, after “body” insert “and company”

50AC★ Page 34, line 45, at end insert –

- “() the number of female and male apprenticeships who began work for the body in that period;
- () the number of apprenticeships who began work for the body in that period from an ethnic minority background;
- () the number of apprentices who left apprenticeship programmes before their completion to join a university or other academic course;
- () the number of apprenticeships that led to permanent jobs within the relevant body;
- () the academic entrance requirements listed for apprenticeship recruitment purposes.”

BARONESS SHARP OF GUILDFORD
LORD STONEHAM OF DROXFORD

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.”

LORD STEVENSON OF BALMACARA
LORD MENDELSON

51ZA★ Page 37, leave out lines 1 to 8

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.”

LORD STEVENSON OF BALMACARA
LORD MENDELSON

52ZA★ Insert the following new Clause –

“Insolvency: pre-packs

Where a company enters pre-pack proceedings the following conditions must be met in order to protect the company’s creditors –

- (a) the owners of the company must approach the company’s investors for approval prior to entering any pre-pack proceedings;

Amendment
No.

After Clause 19 – continued

- (b) any personnel advising on pre-pack proceedings shall not become the administrator in subsequent pre-pack sales;
- (c) any administrator undertaking a proposed pre-pack sale to connected parties must justify that the prospective sale price represents the best value for creditors; and
- (d) the administrator must make provision for at least three days' notice to be given to creditors of the terms of any such proposed sale if there has been no open marketing of the assets."

52ZB★ Insert the following new Clause –

“Insolvency: protection of small business contractors

Where a company enters insolvency proceedings the company’s directors shall not refer employees to the government’s statutory redundancy scheme unless, if the company’s workforce includes contracted small businesses, the directors and investors of the company have prioritised outstanding payments to those businesses.”

52ZC★ Insert the following new Clause –

“Takeovers and mergers

- (1) Where proceedings for a merger, takeover or significant transaction begin, there shall be a duty –
 - (a) on all publicly listed companies to provide a comprehensive statement on how the best interests of the offeree company will be maintained in relation to the merger, takeover or significant transaction;
 - (b) in relation to any purchase or sale of a public company or transfer of any element of ownership to a public entity.
- (2) The statement provided for by subsection (1) should include but is not limited to details of all advisers involved in the transaction and the contractual basis of their inclusion including information on terms, incentives, expenses terms and levels of payments.”

52ZD★ Insert the following new Clause –

“Businesses: debtor in possession

- (1) Where a business enters insolvency proceedings the business shall have the right to remain in possession of property upon which a creditor has a lien or similar security interest and become a new entity called a debtor in possession (DIP).
- (2) A DIP shall –
 - (a) have the fiduciary and statutory responsibility to preserve and maintain the estate and to operate its business as efficiently as possible in order to maximise ultimate payments on pre-petition debts while keeping post-petition debt current,
 - (b) continue to run the business and have the powers and obligations of a trustee to operate in the best interest of any creditors.
- (3) The management team of the DIP may remain in place, under observation of an Insolvency Practitioner, for a period of up to 90 days, during which –
 - (a) landlords may not pursue unreasonable terms, and

Amendment
No.

After Clause 19 – *continued*

- (b) suppliers may not enforce termination clauses and must maintain supplies,
 - (c) the debtor must allow an Insolvency Practitioner to inspect the debtor’s business premises, books, and records at reasonable times, and after reasonable prior written notice, unless the debtor waives notice.
- (4) The period of time in subsection (3) may be extended to a maximum period of 180 days if the Insolvency Practitioner assesses that –
- (a) the management team develops a plan to restructure the company’s debt;
 - (b) the management team reevaluates the economics of its operating plan and financial condition;
 - (c) the DIP is properly managing its assets;
 - (d) the DIP continues its business operations; or
 - (e) maintain accurate financial records and file the appropriate tax returns.”

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;
 - (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.

**Amendment
No.**

Clause 20 – continued

- () 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)

Clause 22

LORD STEVENSON OF BALMACARA
LORD MENDELSON
LORD STONEHAM OF DROXFORD

52F★ Page 39, leave out lines 20 to 22 and insert –

- “(1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to –
- (a) a qualifying person for a qualifying purpose;
 - (b) a ratepayer for a hereditament.
- (1A) Information disclosed under subsection (1)(b) may –
- (a) be disclosed for the purpose of providing the ratepayer with all information used to assist determination of the valuation of any hereditament for which the ratepayer is responsible for the non-domestic rating liability, and may be retained and used for that purpose, and
 - (b) include information relating to hereditaments not owned by that ratepayer.”

Amendment
No.

Clause 22 – *continued*

LORD STEVENSON OF BALMACARA
LORD MENDELSON

- 52G★** Page 39, line 22, at end insert –
 “() Regulations shall make provision for the disclosure of information as to the basis of valuation for a hereditament or class of hereditaments sufficient for an estimate to be made of the prospective non-domestic rates yield in connection with a Business Improvement District Scheme.”
- 52H★** Page 39, line 33, at end insert –
 “() an interested person for the purposes of an appeal against an assessment in the rating list;”
- 52J★** Page 40, line 1, at end insert “including purposes connected with an appeal against an assessment in the rating list”
- 52K★** Page 40, line 10, at end insert –
 ““interested person” shall have the same meaning as for the appeal regulations relating to appeals to the Valuation Tribunal for England in force from time to time”

After Clause 22

LORD STEVENSON OF BALMACARA
LORD MENDELSON

- 52L★** Insert the following new Clause –
“Alternative dispute resolution: appeals in relation to non-domestic rating list
 The Secretary of State may by regulation make provision for a scheme of alternative dispute resolution for the purposes of any appeal against an assessment in the non-domestic rating list.”
- 52M★** Insert the following new Clause –
“Environmental considerations
 The Secretary of State shall make provision for a scheme of exclusion from any assessment in the 2017 non-domestic rating list or thereafter of an item of plant or machinery required wholly or mainly by virtue of environmental or health and safety legislation and which does not of itself increase the market value or profitability of the hereditament.”

Amendment
No.

Clause 23

LORD STEVENSON OF BALMACARA
LORD MENDELSON

- 52N★** Page 41, line 30, at end insert—
“() provision for valuation officers to provide such information as to the basis of an assessment to alter or enter a rating assessment in the rating list as shall be sufficient for the ratepayer to understand the underlying valuation evidence;”

LORD STEVENSON OF BALMACARA
LORD MENDELSON
LORD STONEHAM OF DROXFORD

- 52P★** Page 41, line 34, at end insert—
“(d) provision for a separate procedure for hereditaments with a rateable value below any threshold set out in regulations;
(e) performance standards for the Valuation Office of Her Majesty’s Revenue and Customs and the Valuation Tribunal;
(f) provision for a right to appeal to the Valuation Tribunal if the valuation officer has not given notice of their decision to the person making a proposal for the alteration of the list within 6 months of the proposal being made;
(g) a requirement that the Valuation Tribunal must determine any appeal submitted to it within 12 months of it being made, or within such extended period as may be agreed upon in writing between the appellant and Tribunal.”

- 52Q★** Page 42, leave out lines 11 to 13

After Clause 23

LORD MENDELSON
LORD STEVENSON OF BALMACARA

- 52R★** Insert the following new Clause—

“Exemptions

Agricultural land and buildings used for cultural events and festivals are exempt from business rates and the provisions outlined in sections 22 and 23.”

After Clause 25

BARONESS NEVILLE-ROLFE

- 53** Insert the following new Clause—

“UK Green Investment Bank

- 3 Omit Part 1 of the Enterprise and Regulatory Reform Act 2013 (UK Green
4 Investment Bank).”

Amendment
No.

After Clause 25 – continued

[Amendments 53ZA and 53ZB are amendments to Amendment 53]

LORD STONEHAM OF DROXFORD

53ZA★ Line 3, at beginning insert –

“(1) Subject to subsection (2), ”

LORD STONEHAM OF DROXFORD
LORD TEVERSON

53ZB★ Line 4, at end insert –

“(2) Subsection (1) shall not have effect until the Secretary of State has laid before each House of Parliament a report detailing his or her proposal –

- (a) to undertake the disposal of the UK Green Investment Bank; or
- (b) that another person may undertake the disposal of the Bank.

(3) A report under subsection (2) must state –

- (a) the kind of disposal intended to be undertaken, and whether the Government intends to retain a minority shareholding,
- (b) the expected time scale for undertaking it,
- (c) how the existing Green Bank objectives of the Bank will be protected and enhanced in the articles of the proposed company, and
- (d) how the Government’s existing, and if appropriate its future, investment will be protected and enhanced.”

LORD WHITTY
LORD MENDELSON

53ZC★ Insert the following new Clause –

“Report on the Pubs Code

- (1) If the Pubs Code Adjudicator identifies a pattern of cases of pub-owning businesses selling tenanted pubs in order to exempt their business from the Pubs Code to the detriment of the tenant, the Adjudicator shall write a report to the Secretary of State outlining recommendations of action to be taken.
- (2) The Secretary of State shall issue a statement within three months of receiving any report under subsection (1) outlining what action he or she intends to take to protect the tenant and if none is to be taken the reasoning for that decision.”

53ZD★ Insert the following new Clause –

“Extending the threshold of pub tie

- (1) Section 69 of the Small Business, Enterprise and Employment Act 2015 (pub-owning business) is amended as follows.
- (2) In subsection (1)(a), for “tied pubs” substitute “pubs of any kind”.
- (3) In subsection (1)(b), for “tied pubs” substitute “pubs of any kind”.

Amendment
No.

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”

54H★ Page 44, line 39, at end insert “, including where the full council of a local authority decides to grant a waiver of the cap”

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).
- (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

Amendment
No.

Clause 26—*continued*

- (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”

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