

# Enterprise Bill [HL]

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## AMENDMENTS TO BE MOVED ON REPORT

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### Schedule 1

#### BARONESS NEVILLE-ROLFE

Page 51, line 3, at end insert –

*“Status*

A1 The Commissioner is a corporation sole.”

Page 51, line 26, at end insert –

*“Commissioner and Deputy Commissioners not civil servants*

Service as the Commissioner or a Deputy Commissioner is not service in the civil service of the state.”

Page 51, line 28, leave out paragraph 6

Page 52, line 9, leave out “staff provided under paragraph 6” and insert “the Commissioner’s staff appointed under paragraph 11A, or seconded under paragraph 11B,”

Page 52, line 31, leave out paragraphs 10 and 11

Page 52, line 33, at end insert –

*“Staff*

11A (1) The Commissioner may appoint staff.

(2) Staff are to be appointed on terms and conditions determined by the Commissioner.

(3) The terms and conditions on which a member of staff is appointed may provide for the Commissioner to pay to or in respect of the member of staff –

(a) remuneration;

(b) allowances;

**Schedule 1 – continued**

- (c) sums by way of or in respect of pensions.
- (4) Service as a member of the Commissioner’s staff appointed under subparagraph (1) is not service in the civil service of the state.
- 11B (1) The Commissioner may make arrangements for persons to be seconded to the Commissioner to serve as members of the Commissioner’s staff.
- (2) The arrangements may include provision for payments by the Commissioner to the person with whom the arrangements are made or directly to seconded staff (or both).
- (3) A period of secondment to the Commissioner does not affect the continuity of a person’s employment with the employer from whose service he or she is seconded (and, in particular, nothing in paragraph 11A(4) affects such a person’s continuity of service in the civil service of the state).
- 11C Before appointing staff under paragraph 11A or making arrangements under paragraph 11B(1), the Commissioner must obtain the approval of the Secretary of State as to the Commissioner’s policies on –
  - (a) the number of staff to be appointed or seconded;
  - (b) payments to be made to or in respect of staff;
  - (c) the terms and conditions on which staff are to be appointed or seconded.

*Financial and other assistance from the Secretary of State*

- 11D (1) The Secretary of State may make payments and provide other financial assistance to the Commissioner.
- (2) The Secretary of State may –
  - (a) provide staff in accordance with arrangements made by the Secretary of State and the Commissioner under paragraph 11B;
  - (b) provide premises, facilities or other assistance to the Commissioner.

*Application of seal and proof of documents*

- 11E (1) The application of the Commissioner’s seal must be authenticated by the signature of –
  - (a) the Commissioner, or
  - (b) a person who has been authorised by the Commissioner for that purpose (whether generally or specially).
- (2) A document purporting to be duly executed under the seal –
  - (a) is to be received in evidence, and
  - (b) is to be treated as duly executed unless the contrary is shown.”

**Clause 8**

BARONESS NEVILLE-ROLFE

**Clause 11**

BARONESS NEVILLE-ROLFE

Page 10, line 22, leave out subsections (5) and (6) and insert –

- “(5) Before making regulations under this section, the Secretary of State must consult –
- (a) the Small Business Commissioner (unless that office is vacant),
  - (b) such other persons as appear to the Secretary of State to be persons affected by the regulations, and
  - (c) such other persons as the Secretary of State considers appropriate.
- (6) If, as a result of consultation under subsection (5), the Secretary of State considers it appropriate to change the whole or part of the proposed regulations, the Secretary of State must carry out such further consultation with respect to the changes as seems appropriate.”

**After Clause 11**

BARONESS NEVILLE-ROLFE

Insert the following new Clause –

**“Regulations under section 11: procedure**

- (1) In this section “regulations” means regulations under section 11.
- (2) If after consultation under section 11, the Secretary of State considers it appropriate to proceed with the making of regulations, the Secretary of State may lay before Parliament –
  - (a) draft regulations, and
  - (b) an explanatory document.
- (3) The explanatory document must –
  - (a) explain why the Secretary of State considers that one of the conditions in section 11(1) is met, and
  - (b) contain a summary of representations received in the consultation.
- (4) The Secretary of State may not act under subsection (2) before the end of the period of 12 weeks beginning with the day on which the consultation began under section 11(5).
- (5) Subject to subsections (6) to (13), if after the expiry of the 40-day period the draft regulations laid under subsection (2) are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.
- (6) The procedure in subsections (7) to (10) applies to the draft regulations instead of the procedure in subsection (5) if –
  - (a) either House of Parliament so resolves within the 30-day period, or
  - (b) a committee of either House charged with reporting on the draft regulations so recommends within the 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.

**After Clause 11 – continued**

- (7) The Secretary of State must have regard to—
- (a) any representations,
  - (b) any resolution of either House of Parliament, and
  - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations,
- made during the 60-day period with regard to the draft regulations.
- (8) If after the expiry of the 60-day period the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.
- (9) If after the expiry of the 60-day period the Secretary of State wishes to proceed with the draft regulations but with material changes, the Secretary of State may lay before Parliament—
- (a) revised draft regulations, and
  - (b) a statement giving a summary of the changes proposed.
- (10) If the revised draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the revised draft regulations.
- (11) For the purposes of this section regulations are made in the terms of draft regulations or revised draft regulations if they contain no material changes to their provisions.
- (12) In this section, references to the “30-day”, “40-day” and “60-day” periods in relation to any draft regulations are to the periods of 30, 40 and 60 days beginning with the day on which the draft regulations were laid before Parliament.
- (13) For the purposes of subsection (12) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- (14) Regulations are to be made by statutory instrument.”

**Clause 13**

BARONESS NEVILLE-ROLFE

Page 11, line 30, leave out “given to the Secretary of State” and insert “published”

**Schedule 2**

BARONESS NEVILLE-ROLFE

Page 54, line 22, leave out “give to the Secretary of State” and insert “publish”

Page 54, line 43, leave out “given to the Secretary of State” and insert “published”

Page 55, line 3, leave out “given to the Secretary of State” and insert “published”

Page 55, line 15, leave out “given to the Secretary of State or” and insert “published or given to”

**Schedule 2** – *continued*

Page 55, line 16, leave out from “of” to end of line 17 and insert “the publication of a required document;”

Page 55, line 18, leave out “given to the Secretary of State” and insert “published”

Page 55, line 21, leave out “given to the Secretary of State” and insert “published”

Page 55, line 28, leave out “given to the Secretary of State” and insert “published”

Page 55, line 39, leave out from “(c)” to end of line 40 and insert “publish anything amended and any back-dated assessment.”

Page 56, line 2, leave out “given to the Secretary of State” and insert “published”

Page 56, line 4, leave out from “(b)” to end of line 5 and insert “publish any amended assessment or back-dated assessment.”

Page 56, line 8, leave out “given to the Secretary of State” and insert “published”

Page 56, line 11, leave out “given to the Secretary of State” and insert “published”

Page 56, line 15, leave out “given to the Secretary of State or” and insert “published or given to”

Page 56, line 16, leave out from second “the” to end of line 17 and insert “publication of an updating document;”

Page 56, line 18, leave out “given to the Secretary of State” and insert “published”

Page 56, line 21, leave out “given to the Secretary of State” and insert “published”

**Clause 14**

BARONESS NEVILLE-ROLFE

Page 12, line 38, after “regulator” insert “other than the Commission for Equality and Human Rights”

**Clause 17**

BARONESS NEVILLE-ROLFE

Page 24, line 16, leave out “other”

Page 24, line 29, leave out “other”

Page 25, line 23, leave out “other”

Page 28, line 28, leave out “regulator” and insert “person”

Page 29, line 6, leave out “the primary authority” and insert “a direct primary authority or a co-ordinated primary authority”

Page 30, line 8, leave out “the primary authority” and insert “a direct primary authority or a co-ordinated primary authority”

**Clause 17 – continued**

Page 30, line 19, leave out from “if” to “inconsistent” in line 24 and insert “ –

- (a) another qualifying regulator nominated as the primary authority (“PA2”) for the exercise of the function in relation to the person has previously given advice or guidance (generally or specifically), and
- (b) the person considers the proposed enforcement action to be”

Page 30, line 26, leave out from “that” to “action” in line 28 and insert “such advice or guidance has previously been given and that the person considers the proposed enforcement action to be inconsistent with it, PA1 must –

- (a) refer the”

Page 30, leave out lines 30 to 36 and insert –

- “(4) If subsection (3) applies –
  - (a) the reference of the proposed enforcement action by PA1 to PA2 under subsection (3)(a) is to be treated as a notification given by the enforcing authority to PA2 under section 25C(2)(a), and
  - (b) accordingly, section 25C (but not this section) applies in relation to PA2 as the primary authority and ceases to apply in relation to PA1 as the primary authority.”

Page 30, line 40, leave out “for a primary authority or another” and insert “in relation to an”

**Schedule 3**

BARONESS NEVILLE-ROLFE

Page 57, line 12, leave out “enforcing” and insert “primary”

**Clause 20**

THE EARL OF KINNOULL  
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Page 38, line 34, at end insert –

- “( ) It shall be open to the insurer to adduce evidence of the fact that it sought and obtained legal advice to the effect that it had reasonable grounds for disputing the claim without thereby generally waiving privilege in the substance or content of the legal advice it received.”

Page 39, line 3, at end insert –

- “( ) After section 10 of the Limitation Act 1980 (special time limit for claiming contribution) insert –

**Clause 20** – *continued***“10A Special time limit for actions for breach of the term implied by section 13A of the Insurance Act 2015**

An action founded on a breach of the term implied by section 13A(1) of the Insurance Act 2015 shall not be brought –

- (a) after the expiration of one year from the date on which the insurer made the payment or, if the insurer has made more than one payment, the final payment of the indemnity in respect of which the breach is alleged; or
  - (b) if earlier, after the expiration of six years from the date on which the cause of action for breach of the term implied accrued.”
- ( ) After section 8A of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations to make contributions between wrongdoers) insert –

**“8B Extinction of obligations arising from or by reason of a breach of the term implied by section 13A(1) of the Insurance Act 2015**

- (1) If any obligation arising from or by reason of a breach of the term implied by section 13A(1) of the Insurance Act 2015 has subsisted for a continuous period of –
  - (a) one year after the date on which the insurer made the payment or, if the insurer has made more than one payment, the final payment of the indemnity in respect of which the breach is alleged; or
  - (b) five years;without any relevant claim having been made in relation to the obligation, then as from the expiration of the earlier of the periods specified under paragraph (a) and (b) the obligation shall be extinguished.
- (2) Subsections (4) and (5) of section 6 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.””

**Clause 22**

BARONESS NEVILLE-ROLFE

Page 41, line 38, at end insert –

**“63C Freedom of information**

- (1) Revenue and customs information relating to a person which has been disclosed under section 63A or 63B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure –
  - (a) would specify the identity of the person to whom the information relates, or
  - (b) would enable the identity of such a person to be deduced.

**Clause 22**—*continued*

- (2) In this section “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.”

**After Clause 25**

BARONESS NEVILLE-ROLFE

Insert the following new Clause—

**“UK Government Investments Limited**

- (1) The Treasury or the Secretary of State may—
- (a) provide grants, loans, guarantees or indemnities, or any other kind of financial assistance (actual or contingent) to UK Government Investments Limited, or
  - (b) make other payments to UK Government Investments Limited.
- (2) “UK Government Investments Limited” means the private company limited by shares incorporated on 11th September 2015 with the company number 09774296.”

Insert the following new Clause—

**“Disposal of Crown’s shares in UK Green Investment Bank company**

- (1) Part 1 of the Enterprise and Regulatory Reform Act 2013 (UK Green Investment Bank) is amended as follows.
- (2) Omit the following provisions—
- (a) section 1 (the green purposes);
  - (b) section 3 (alteration of Bank’s objects where it is designated by Secretary of State);
  - (c) section 5 (accounts, reports etc where Bank is designated by Secretary of State).
- (3) In section 2 (designation of Bank)—
- (a) for the heading substitute “Interpretation”,
  - (b) omit subsections (1) to (8) (Secretary of State’s power to designate), and
  - (c) after subsection (9) insert—
    - “(10) In this Part “UK Green Investment Bank company” means—
      - (a) the UK Green Investment Bank, or
      - (b) a company that is or at any time has been in the same group as the Bank.
    - (11) For the purposes of subsection (10) a company is to be regarded as being in the same “group” as the UK Green Investment Bank, if, for the purposes of section 1161(5) of the Companies Act 2006, the company is a group undertaking in relation to the UK Green Investment Bank.”



**After Clause 25 – continued**

- (4) In section 4 (financial assistance from the Secretary of State) –
- (a) in subsection (1) –
    - (i) omit “Where an order has been made under section 2,”
    - (ii) for “the UK Green Investment Bank” substitute “a UK Green Investment Bank company”, and
    - (iii) for “Crown’s shareholding in it is more than half of its issued share capital” substitute “Crown holds shares in it or another UK Green Investment Bank company”,
  - (b) in subsection (3), in paragraphs (d) and (e), for “the Bank” substitute “the company”,
  - (c) omit subsection (5), and
  - (d) in subsection (6) (no effect on other powers to give financial assistance to the Bank) –
    - (i) for “the Bank”, in the first place, substitute “a UK Green Investment Bank company”, and
    - (ii) for “Crown’s shareholding in the Bank is not more than half of its issued share capital” substitute “Crown does not hold shares in it or another UK Green Investment Bank company”.
- (5) In section 6 (documents to be laid before Parliament) –
- (a) in subsection (1)(a) omit “after an order has been made under section 2,”
  - (b) in subsection (1)(b) for “the Bank” substitute “a UK Green Investment Bank company”, and
  - (c) omit subsections (3) and (4).
- (6) After section 6 insert –
- “6A Report on disposal of Crown’s shares in UK Green Investment Bank company**
- (1) As soon as reasonably practicable after a disposal of shares held by the Crown in a UK Green Investment Bank company the Secretary of State must lay before Parliament a report on the disposal.
  - (2) The report –
    - (a) must state –
      - (i) the kind of disposal, and
      - (ii) the proportion of the company’s share capital retained by the Crown (or that none has been retained); and
    - (b) must include –
      - (i) an assessment of how the Secretary of State’s objectives for the disposal have been achieved, and
      - (ii) where the Crown still holds one or more shares in a UK Green Investment Bank company, details of the Secretary of State’s intentions as to the Crown’s future role and interest in such companies.
  - (3) The Secretary of State must give a copy of the report to –
    - (a) the Scottish Ministers,
    - (b) the Welsh Ministers, and

**After Clause 25 – continued**

- (c) the Office of the First Minister and deputy First Minister in Northern Ireland.
- (4) Subsection (3) applies to a report as described in section (*UK Green Investment Bank: transitional provision*) as well as to a report under this section.””

Insert the following new Clause –

**“UK Green Investment Bank: transitional provision**

- (1) The Secretary of State may not make regulations under section 29 appointing the day on which section (*Disposal of Crown’s shares in UK Green Investment Bank company*) comes into force unless the Secretary of State has –
  - (a) decided to make a disposal of shares held by the Crown in a UK Green Investment Bank company, and
  - (b) laid before Parliament a report on the proposed disposal (or, if more than one, on each of them) which states –
    - (i) the kind of disposal intended,
    - (ii) the expected time-scale for the disposal, and
    - (iii) the Secretary of State’s objectives for the disposal.
- (2) In this section “UK Green Investment Bank company” means –
  - (a) the public company limited by shares incorporated on 15 May 2012 with the company number SC424067 and with the name UK Green Investment Bank plc, or
  - (b) a company that is or at any time has been in the same group as that company.”
- (3) For the purposes of subsection (2) a company is to be regarded as being in the same “group” as another company, if, for the purposes of section 1161(5) of the Companies Act 2006, the company is a group undertaking in relation to that other company.”

**Clause 26**

BARONESS NEVILLE-ROLFE

Page 46, line 34, leave out “to which subsection (5) applies” and insert “under section 153A”

Page 46, line 39, leave out from beginning to end of line 7 on page 47

Page 47, leave out lines 9 to 11

**Clause 29**

BARONESS NEVILLE-ROLFE

Page 49, line 16, at end insert –

- “( ) section (*UK Green Investment Bank: transitional provision*) (UK Green Investment Bank: transitional provision);”

**Clause 30**

BARONESS NEVILLE-ROLFE

Page 50, line 4, at end insert “(except paragraphs A1 and 11E of Schedule 1)”

Page 50, line 11, at end insert—

“( ) Paragraphs A1 and 11E of Schedule 1 (establishment of Small Business Commissioner as corporation sole and provisions about the application of the seal etc) extend to England and Wales and Northern Ireland.”

# Enterprise Bill [HL]

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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*19th October 2015*

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