

Enterprise Bill [HL]

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 19th November 2015, as follows –

Clauses 25 and 26
Schedule 4

Clauses 27 to 31
Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 25

BARONESS NEVILLE-ROLFE

68 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.”

69 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);

Amendment
No.

After Clause 25 – continued

- (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.”
- (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).

Amendment
No.

After Clause 25 – continued

(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
 - (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.””

70

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

Amendment
No.

After Clause 25 – continued

- (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.”

LORD TEVERSON
LORD STONEHAM OF DROXFORD
BARONESS WORTHINGTON
LORD MENDELSON

70ZA★ Insert the following new Clause –

“Objectives of UK Green Investment Bank

- (1) Prior to a sale of shares of a UK Green Investment Bank Company (as defined in section (*UK Green Investment Bank: transitional provision*)(2)) the Secretary of State shall –
 - (a) ensure that the objects of the UK Green Investment Bank Company contained in its articles of association (“the Objectives”) shall be –
 - (i) the reduction of greenhouse gas emissions;
 - (ii) the advancement of efficiency in the use of natural resources;
 - (iii) the protection or enhancement of the natural environment;
 - (iv) the protection or enhancement of biodiversity;
 - (v) the promotion of environmental sustainability;
 - (b) ensure the articles of association of the UK Green Investment Bank Company require its directors to act and review their actions against the Objectives;
 - (c) create a special share; and
 - (d) establish a company limited by guarantee registered with the Charity Commission (“the Charitable Company”) that will own the special share.
- (2) Any amendment to the Objectives shall require the consent of the Charitable Company, as holder of the special share.
- (3) The special share shall –
 - (a) have no income or capital rights;
 - (b) have no voting rights except on a vote to amend the Objectives and on a vote to alter the rights of the special share.
- (4) The rights of the special share shall be deemed altered by the issue of any other special share of the same class.
- (5) The Charitable Company that will own the special share shall –
 - (a) have three members, none of which shall be public bodies;
 - (b) have as initial members legal persons appointed by the Committee on Climate Change established under the Climate Change Act 2008;
 - (c) provide that if any member ceases to be a member the remaining members shall nominate the replacement member;

Amendment
No.

After Clause 25 – continued

- (d) provide that the members will be required to act unanimously in exercising the rights attached to the special share.
- (6) For the avoidance of doubt, the Committee on Climate Change shall play no role in the conduct of the Charitable Company or its members following the initial appointment of those members prior to the sale of UK Green Investment Bank company shares by the Secretary of State.”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

70ZB★ Insert the following new Clause –

“Protecting small businesses online

- (1) The Secretary of State, after consulting relevant bodies, shall publish advice and guidance to businesses in relation to keeping their business safe and protecting it against online threats.
- (2) The guidance published by the Secretary of State under subsection (1) shall include but not be limited to advice on protecting computer-based equipment and information from unintended or unauthorised access, change, theft or destruction.
- (3) The City of London Police is a relevant body for the purposes of subsection (1).”

70ZC★ Insert the following new Clause –

“Market rent only: conditions and triggers

- (1) The Pubs Code shall require pub-owning businesses to offer a market rent only option to tied pub tenants which fall within the definition in section 70(1)(a) of the Small Business, Enterprise and Employment Act 2015 in the following circumstances –
 - (a) in connection with the renewal of any of the pub arrangements;
 - (b) in connection with a rent assessment or assessment of money payable by the tenant in lieu of rent;
 - (c) in connection with a significant increase in the price at which any product or service which is subject to a product or service tie is supplied to the tied pub tenant where the increase was not reasonably foreseeable –
 - (i) when the tenancy or licence was granted, or
 - (ii) if there has been an assessment of the kind specified in paragraph (b), when the last assessment was concluded;
 - (d) after a trigger event has occurred.
- (2) A “trigger event”, in relation to a tied pub tenant, means an event which –
 - (a) is beyond the control of the tied pub tenant,
 - (b) was not reasonably foreseeable,
 - (c) has a significant impact on the level of trade that could reasonably be expected to be achieved at the tied pub, and
 - (d) is of a description specified in the Pubs Code.”

Amendment
No.

After Clause 25 – continued

70ZD★ Insert the following new Clause –

“Parallel rent assessments

The Pubs Code shall by June 2016 require pub-owning businesses to offer parallel rent assessments to their tied pub tenants who are eligible for the market rent only option as defined in section 43 of the Small Business, Enterprise and Employment Act 2015.

70ZE★ Insert the following new Clause –

“Report on pub company avoidance

- (1) The Pubs Code Adjudicator shall have a duty to report to the Secretary of State on cases of pub-owning businesses engaging in unfair business practices in order to avoid the provisions in Part 4 of the Small Business, Enterprise and Employment Act 2015, to the detriment of the tenant.
- (2) A report under subsection (1) shall make recommendations on –
 - (a) actions to be taken to prevent pub-owning businesses from engaging in unfair business practices in order to avoid the provision in Part 4 of the 2015 Act; and
 - (b) provisions of redress for any affected pub tenant
- (3) 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.”

70ZF★ Insert the following new Clause –

“Provision of broadband: public communications to small businesses

- (1) The Secretary of State shall by regulations regulate the content of broadband providers’ public communications relating to the broadband speeds offered to small businesses.
- (2) The regulations under subsection (1) shall require that in their communications with small businesses, broadband providers shall only communicate the minimum speeds offered as part of their service and not the range of speeds offered.”

Clause 26

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON

70ZG Page 44, line 26, at end insert –

- “() Regulations shall make provision to require prescribed public sector authorities to consider, prior to making a public sector exit payment –
- (a) whether the payment being paid is appropriate; and
 - (b) whether the payment would provide value for money.”

70A Page 44, line 29, at end insert “except in the case of conciliation settlements”

Amendment
No.

Clause 26—*continued*

LORD LOW OF DALSTON
LORD WILLS

70AA★ Page 44, line 29, at end insert “except in the case of exit payments for potential claims under Part IVA of the Employment Rights Act 1996 (protected disclosures)”

LORD LOW OF DALSTON

70AB★ Page 44, line 29, at end insert—

“() Regulations under subsection (1) may not apply to exit payments paid under terms of settlement agreed between the parties in respect of litigation concerning claims of unlawful discrimination, harassment or victimisation (or both) brought under the Equality Act 2010, or exit payments that comply with an award order (or both) of a court or tribunal in relation to such claims.”

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON

70B Page 45, leave out lines 5 to 7

BARONESS DONAGHY

70C Page 45, line 22, at end insert “, including payments relating to employees earning less than £27,000 per year”

70D★ Page 45, line 22, at end insert “, including cases relating to employees who have been in long-term service”

BARONESS NEVILLE-ROLFE

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

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

73 Page 47, leave out lines 9 to 11

BARONESS HAYTER OF KENTISH TOWN
LORD MENDELSON

73A Page 47, line 21, at end insert—

“(2A) All prescribed public sector authorities may relax the restrictions imposed by regulations made under section 153A, if certain conditions are met.

(2B) The Secretary of State shall by regulations made by statutory instrument specify the conditions to be met under subsection (2A).”

Amendment
No.

Clause 26—*continued*

LORD WILLS
LORD LOW OF DALSTON
BARONESS HAYTER OF KENTISH TOWN

73B★ Page 48, line 11, 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 IVA 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 IVA 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 (contractual duties of confidentiality).
- (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).”

Clause 29

BARONESS NEVILLE-ROLFE

74 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

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

76 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.”

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