

NATIONAL SECURITY AND INVESTMENT BILL

Supplementary Memorandum from the Department for Business, Energy and Industrial Strategy to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. The Government has tabled amendments to the National Security and Investment Bill (“the Bill”) for Lords Committee stage. No new delegated powers are proposed, however one of the amendments significantly amends an existing delegated power. This supplementary memorandum explains the purpose of this amendment and its impact on the relevant delegated power and has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Bill. This memorandum is intended to be read with the original delegated powers memorandum which identifies the provisions of the Bill that confer delegated powers and explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. AMENDED DELEGATED POWER

Clause 53: Procedure for service, etc.

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: Negative

Context and purpose of the amendment

2. Clause 53(1) enables the Secretary of State to make regulations, subject to the negative resolution procedure (see clause 63(4)), prescribing the procedure for giving notices and serving orders under the Bill. Pursuant to clause 53(2), these regulations may, in particular, specify how a document must be given or served, the address to which it should be sent and whether it may be sent electronically. They may also specify the date and time a document is to be regarded as given or served (this may be important, for example, in determining when a time limit begins to run). The regulations may also make

particular provision for cases where the recipient is not an individual (for example, in the case of a company) or is outside the United Kingdom.

3. The Government has tabled an amendment to clause 53(1). Following this amendment clause 53(1) would read as follows:

“(1) The Secretary of State may by regulations make provision for the procedure which must be followed when a provision of or made under this Act requires or allows a notice, order, notification or document of any kind to be given or served.”

4. The purpose of this amendment is to ensure that the power to make regulations in clause 53(1) in relation to the procedure for service of documents extends to cover all of the different types of notices, orders and documents under the Bill.

Justification for the amendment

5. On further consideration, the Government has reached the view that the current wording of clause 53(1) would not include all of the different types of document envisaged by the Bill, as the drafting only references notices and orders. For example, validation applications under clause 16 are not referred to as notices or orders anywhere in the Bill. The Government considers that, as a matter of principle, it should be possible for regulations specifying the procedure for service of documents to make provision for all the different types of document under the Bill.

Impact on procedure

6. The amendment has no impact on the parliamentary procedure provided for.

Department for Business, Energy and Industrial Strategy

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