

# Subsidy Control Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*The amendments have been marshalled in accordance with the Instruction of 27th January 2022, as follows –*

Clauses 1 to 9	Schedule 3
Schedules 1 and 2	Clauses 79 to 92
Clauses 10 to 78	Title.

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**Clause 10**

LORD MCNICOL OF WEST KILBRIDE  
BARONESS HUMPHREYS

**13** Page 6, line 30, after “Crown” insert “, Scottish Minister, Welsh Minister or Northern Ireland department”

***Member’s explanatory statement***

*This amendment clarifies that Scottish, Welsh and Northern Ireland Ministers are able to make a streamlined subsidy scheme.*

**14** Page 6, line 32, at end insert –

“(4A) A streamlined subsidy scheme may be made, in particular, to support areas of relative economic deprivation.”

***Member’s explanatory statement***

*This amendment would make clear that streamlined subsidy schemes may, among other things, be made for the purposes of supporting areas of deprivation.*

LORD FOX

**15** Page 6, line 33, leave out subsections (5) and (6) and insert –

“(5) A streamlined subsidy scheme must be made or modified by regulations subject to the negative procedure.”

**Member's explanatory statement**

*This amendment would require a streamlined subsidy scheme to be made by regulations, as recommended by the DPRRC.*

LORD MCNICOL OF WEST KILBRIDE  
BARONESS HUMPHREYS

- 16 Page 6, line 33, after “Parliament” insert “or the relevant devolved legislature”

**Member's explanatory statement**

*This amendment is consequential on an amendment to Clause 10, page 6, line 30 in the name of Lord McNicol of West Kilbride, to make clear that streamlined subsidy schemes designed by a devolved authority must be laid before the relevant devolved legislature.*

- 17 Page 6, line 35, after “Parliament” insert “or the relevant devolved legislature”

**Member's explanatory statement**

*This amendment is consequential on an amendment to Clause 10, page 6, line 30 in the name of Lord McNicol of West Kilbride, to make clear that streamlined subsidy schemes designed and then modified by a devolved authority must have their modified terms laid before the relevant devolved legislature.*

LORD CALLANAN

- 18 Page 6, line 35, at end insert –

“(7) A subsidy scheme or streamlined subsidy scheme may provide for the value of a subsidy to be determined by reference to its gross cash amount or the gross cash equivalent.”

**Member's explanatory statement**

*This amendment ensures that subsidy schemes and streamlined subsidy schemes can refer to the gross cash amount or gross cash equivalent amount of the subsidy, as determined by regulations made under Clause 82.*

**Clause 11**

LORD CALLANAN

- 19 Page 7, line 7, at end insert –

“(2A) Provision under subsection (2)(a) may provide for the value of a subsidy to be determined by reference to its gross cash amount or the gross cash equivalent.”

**Member's explanatory statement**

*This amendment ensures that subsidies of interest and subsidies of particular interest can be defined by reference to gross cash amount or gross cash equivalent amount, as determined by regulations made under Clause 82.*

LORD MCNICOL OF WEST KILBRIDE  
BARONESS RANDERSON

- 20 Page 7, line 8, at end insert –

“(4) Before making regulations under this section, the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

**Clause 11 - continued**

- (5) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without consent.
- (6) If regulations are made in reliance on subsection (5), the Secretary of State must make a statement to the House of Commons explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned.”

***Member’s explanatory statement***

*This amendment would require the Secretary of State to seek the consent of the Devolved Administrations before making regulations under this section. Where such consent is not given within one month, the Secretary of State may make the regulations without that consent but must make a statement to the House of Commons explaining their decision.*

LORD FOX

*Lord Fox gives notice of his intention to oppose the Question that Clause 11 stand part of the Bill.*

***Member’s explanatory statement***

*This is a probing amendment to raise concerns about the definitions in Clause 11 being made by regulations, as highlighted by the DPRRC.*

**Clause 12**

LORD MCNICOL OF WEST KILBRIDE

- 21** Page 7, line 19, leave out subsection (2)

***Member’s explanatory statement***

*This amendment would require individual subsidies given under a subsidy scheme to be judged against the subsidy control principles.*

LORD PURVIS OF TWEED

LORD FOX

- 22** Page 7, line 25, at end insert –  
 “(c) must not make the scheme without a statement that the scheme will operate, either in full or in part, under this Act or EU regulations.”

***Member’s explanatory statement***

*This amendment would require a public authority to make a statement that the scheme will operate, either in full or in part, under this Act or EU regulations before it can be made.*

LORD WIGLEY

- 23** Page 7, line 25, at end insert –  
 “(4) Nothing in this section prevents financial assistance being given by a public authority to anybody it deems appropriate in support of achieving cultural or environmental objectives for which it has responsibility.”

**Clause 13**

LORD MCNICOL OF WEST KILBRIDE  
BARONESS SHEEHAN

24 Page 7, line 33, leave out subsection (2)

***Member's explanatory statement***

*This amendment would require individual subsidies given under a subsidy scheme to be judged against the energy and environment principles.*

**After Clause 13**

LORD MCNICOL OF WEST KILBRIDE  
BARONESS SHEEHAN

25 Insert the following new Clause –

**“Application of the subsidy strategy**

- (1) A public authority –
  - (a) must consider the subsidy strategy before deciding to give a subsidy, and
  - (b) subject to subsection (3), must not give the subsidy unless it is of the view that the subsidy is consistent with that strategy.
- (2) A public authority –
  - (a) must consider the subsidy strategy before making a subsidy scheme, and
  - (b) subject to subsection (3), must not make the scheme unless it is of the view that the subsidies provided for by the scheme will be consistent with that strategy.
- (3) In cases where a public authority believes a subsidy or subsidy scheme is not consistent with the subsidy strategy but is otherwise consistent with the subsidy principles, that authority may give the subsidy or make the subsidy scheme.”

***Member's explanatory statement***

*This amendment would give effect to the subsidy strategy envisaged by another new Clause in the name of Lord McNicol of West Kilbride. It makes clear that subsidies and subsidy schemes should generally be consistent with the contents of the strategy, but that public authorities may proceed in cases where their plans are not consistent with the strategy but are consistent with the subsidy control principles.*

LORD BERKELEY

25A★ Insert the following new Clause –

**“Value for money principle**

A public authority must consider value for money before deciding to give a subsidy or making a subsidy scheme and, where possible, subject subsidies to competitive tendering processes as required for government procurement.”

**Member's explanatory statement**

*All subsidies need to be justified on the basis of value for money for the taxpayer along similar lines to Government procurement rules.*

**Clause 16**

LORD FOX

26 Page 9, line 12, leave out subsections (4) to (7) and insert—

- “(4) A marketable risk country is to be treated for the purposes of this section as not being a marketable risk country if the Secretary of State designates it as not a marketable risk country by regulations.
- (5) The Secretary of State may make regulations under subsection (4) in respect of a marketable risk country only if satisfied that there is a lack of sufficient private market capacity because of—
- (a) a significant contraction of private credit insurance capacity,
  - (b) a significant deterioration of sovereign sector rating, or
  - (c) a significant deterioration of corporate sector performance.
- (6) The Secretary of State may by regulations revoke a designation made under subsection (4), and must do so in respect of a marketable risk country if the Secretary of State ceases to be satisfied as mentioned in subsection (5).”

**Member's explanatory statement**

*This amendment would require designations relating to marketable risk countries to be made by regulations, not by direction, as recommended by the DPRRC.*

**Clause 18**

LORD MCNICOL OF WEST KILBRIDE

27 Page 10, line 8, leave out “an” and insert “a local authority”

**Member's explanatory statement**

*This amendment, coupled with another, is designed to probe the definition of “area of the United Kingdom” in the context of the prohibition of relocation subsidies.*

28 Page 10, line 11, after “another” insert “local authority”

**Member's explanatory statement**

*This amendment, coupled with another, is designed to probe the definition of “area of the United Kingdom” in the context of the prohibition of relocation subsidies.*

LORD RAVENSDALE

*Lord Ravensdale gives notice of his intention to oppose the Question that Clause 18 stand part of the Bill.*

**After Clause 18**

BARONESS BOYCOTT  
 BARONESS SHEEHAN  
 LORD WHITTY

29 Insert the following new Clause –

**“Liabilities as a polluter**

Subsidies may not relieve a beneficiary from liabilities arising from its responsibilities as a polluter under the law of England and Wales, Scotland or Northern Ireland.”

***Member’s explanatory statement***

*This amendment aims to ensure that there is a general prohibition on subsidies relieving a beneficiary from any liabilities as a polluter.*

**Clause 25**

LORD FOX

30 Page 13, line 21, leave out subsections (4) to (6)

***Member’s explanatory statement***

*This amendment would remove the ability of the Treasury to amend the definition of “deposit taker”, as recommended by the DPRRC.*

**Clause 26**

LORD FOX

31 Page 14, line 4, leave out subsections (4) to (6)

***Member’s explanatory statement***

*This amendment would remove the ability of the Treasury to amend the definition of “insurance company” as recommended by the DPRRC.*

**Clause 27**

LORD FOX

32 Page 14, line 30, leave out subsections (3) to (5)

***Member’s explanatory statement***

*This amendment would remove the ability of the Treasury to amend the definition of “insurer” as recommended by the DPRRC.*

**After Clause 28**

BARONESS JONES OF MOULSECOOMB  
 BARONESS BENNETT OF MANOR CASTLE

33 Insert the following new Clause –

**“Fossil fuels**

(1) A subsidy for –

**After Clause 28 - continued**

- (a) fossil fuel development,
  - (b) new construction of unmitigated fossil fuel powered electricity generation, whether in the United Kingdom or elsewhere, or
  - (c) the decommissioning of old fossil fuel infrastructure,
- is prohibited.
- (2) The prohibition in subsection (1) includes a subsidy that falls within the definition used by the International Monetary Fund for fossil fuel subsidies, namely financial assistance for fuel consumption multiplied by the difference between existing and efficient prices.
- (3) In this section—
- “efficient prices” means prices warranted by supply costs, environmental costs and revenue considerations;
  - “fossil fuel” means fuel consisting of, or made from, coal, natural gas or petroleum;
  - “fossil fuel development” means any activity that relates to extracting, processing and distributing fossil fuel.”

**Member’s explanatory statement**

*This amendment would prohibit subsidies for fossil fuels including those which fall within the IMF’s definition, fuel consumption times the gap between existing and efficient prices (i.e. prices warranted by supply costs, environmental costs and revenue considerations).*

**Clause 29**

LORD MCNICOL OF WEST KILBRIDE

34 Page 15, line 18, at end insert—

- “(aa) the social and economic welfare of—
  - (i) users of the SPEI services, and
  - (ii) persons who are engaged in delivering the SPEI services, and”

**Member’s explanatory statement**

*This probing amendment seeks to understand the extent to which subsidy for services of public economic interest may be given to advance the social and economic welfare of a service’s users or providers.*

**After Clause 29**

LORD PURVIS OF TWEED  
LORD FOX

35 Insert the following new Clause—

**“Subsidies free from political motivation or influence**

For the purposes of this Act a subsidy is only lawful if provided free from political motivation or influence.”

**Member’s explanatory statement**

*This amendment would prohibit subsidies that are not provided free from political motivation or influence.*

### After Clause 31

LORD MCNICOL OF WEST KILBRIDE

36 Insert the following new Clause—

**“Social and economic duties**

- (1) Where—
  - (a) a subsidy secures the provision of—
    - (i) goods,
    - (ii) works,
    - (iii) services, or
    - (iv) the supply of energy, and
  - (b) the value of that subsidy exceeds the amount specified in section 36(1), it must be made on a social value basis.
- (2) When subsection (1) applies, a public authority must impose requirements on the recipient that the authority believes will advance its chosen social value objectives.
- (3) A public authority may, where it deems it appropriate, specify penalties to be imposed on the recipient if social value requirements are not met.
- (4) In this section, “social value” means the improvement of economic, social and environmental well-being of a relevant geographical area.”

***Member’s explanatory statement***

*This probing amendment seeks to understand whether and how certain subsidies exceeding £315,000 may make a contribution to achieving social value, a concept used in relation to procurement under the Public Services (Social Value) Act 2012.*

### Clause 32

LORD MCNICOL OF WEST KILBRIDE

37 Page 17, line 8, at end insert—

“(aa) the subsidy database and its contents are subject to routine audit, and”

***Member’s explanatory statement***

*This amendment would require regular audits of the subsidy database to ensure its contents are of appropriate quality.*

### Clause 33

LORD MCNICOL OF WEST KILBRIDE

38 Page 17, line 19, leave out paragraphs (a) and (b)

***Member’s explanatory statement***

*This amendment removes the declaration exemption for individual subsidies given under a scheme, meaning those subsidies would have to be entered into the subsidy database.*



LORD MCNICOL OF WEST KILBRIDE  
BARONESS HUMPHREYS

39 Page 17, line 21, leave out “£500,000” and insert “£500”

***Member’s explanatory statement***

*This amendment would reduce the threshold for entering subsidies into the subsidy database from £500,000 to £500.*

LORD MCNICOL OF WEST KILBRIDE

40 Page 17, line 24, leave out “one year” and insert “three months”

***Member’s explanatory statement***

*This amendment would require subsidies or schemes to be entered in the database within three months of being made, rather than one year, if given in the form of a tax measure.*

41 Page 17, line 26, leave out “six months” and insert “one month”

***Member’s explanatory statement***

*This amendment would require subsidies or schemes to be entered in the database within one month of being made, rather than six months, if given in any form other than a tax measure.*

42 Page 17, line 33, leave out “one year” and insert “three months”

***Member’s explanatory statement***

*This amendment would require that modifications to subsidies or schemes entered into the database are made within three months of that modification, if given in the form of a tax measure.*

43 Page 17, line 35, leave out “six months” and insert “one month”

***Member’s explanatory statement***

*This amendment would require that modifications to subsidies or schemes entered into the database are made within one month of that modification, if given in any form other than a tax measure.*

**Clause 34**

LORD MCNICOL OF WEST KILBRIDE  
LORD FOX

44 Page 18, line 27, at end insert –

“(j) the date the subsidy or scheme was entered onto the database.”

***Member’s explanatory statement***

*This amendment would require the date a subsidy or scheme was entered onto the database to be included in the information public authorities are required to enter into the database.*

45 Page 18, line 27, at end insert –

“(2A) Where a subsidy relates to the provision of goods or works and the value of that subsidy exceeds the amount specified in section 36(1), the regulations must require a public authority’s entry to include information on –

**Clause 34 - continued**

- (a) the share of domestically sourced content by value, and
  - (b) the recipient of the subsidy's progress against a benchmark of 60% domestically sourced content across the lifetime of that subsidy.
- (2B) For the purposes of subsection (2A), "domestically sourced content" means components or materials that were wholly produced in the United Kingdom."

***Member's explanatory statement***

*This probing amendment would require public authorities to submit to the subsidy database information regarding domestically sourced content. Notwithstanding the prohibition contained in Clause 17, it is intended to facilitate a discussion on the extent to which public authorities can monitor the use of domestic goods.*

46 Page 18, line 32, at end insert—

“(ba) a statement outlining how the terms and conditions for subsidy eligibility are consistent with the subsidy control principles;”

***Member's explanatory statement***

*This probing amendment would allow regulations specifying the information to be included in the subsidy database to include a statement outlining how the subsidy scheme's terms and conditions ensure adherence to the subsidy control principles.*

**Clause 36**

LORD MCNICOL OF WEST KILBRIDE  
BARONESS HUMPHREYS

47 Page 19, line 20, leave out “£315,000” and insert “£500”

***Member's explanatory statement***

*This amendment would make the subsidy control requirements applicable to minimal or SPEI financial assistance worth more than £500.*

**Clause 41**

LORD MCNICOL OF WEST KILBRIDE  
BARONESS HUMPHREYS

48 Page 23, line 15, leave out “£14,500,000” and insert “£500”

***Member's explanatory statement***

*This amendment would make Clause 33 applicable to SPEI subsidies worth more than £500.*

LORD MCNICOL OF WEST KILBRIDE

49 Page 23, line 16, leave out paragraph (b)

***Member's explanatory statement***

*This probing amendment removes the exemption for various SPEI services from the reporting requirements in Clause 33.*

**Clause 46**

BARONESS BENNETT OF MANOR CASTLE

*Baroness Bennett of Manor Castle gives notice of her intention to oppose the Question that Clause 46 stand part of the Bill.*

**Member's explanatory statement**

*This probing amendment is intended to elicit why Bank of England monetary policy subsidies are excluded from the provisions of the Bill.*

**Clause 47**

LORD MCNICOL OF WEST KILBRIDE  
LORD JUDGE  
LORD FOX  
LORD THOMAS OF CWMGIEDD

50 Page 26, line 27, leave out subsection (7)

**Member's explanatory statement**

*This amendment removes the proposed ability for the Treasury to keep financial stability directions secret from Parliament and the public, thereby enacting a recommendation of the Delegated Powers and Regulatory Reform Committee.*

**Clause 48**

LORD DODDS OF DUNCAIRN  
BARONESS HOEY

51★ Page 27, line 13, at end insert –

“(3A) The subsidy control requirements under the Act do not apply if they have the effect of causing any unfair economic disadvantage to Northern Ireland as a result of the implementation of Article 10 of the Northern Ireland Protocol.”

**Clause 51**

BARONESS JONES OF MOULSECOOMB

*Baroness Jones of Moulsecoomb gives notice of her intention to oppose the Question that Clause 51 stand part of the Bill.*

**Member's explanatory statement**

*This probing amendment is intended to elicit why nuclear energy is excluded from the energy and environment principles in the Bill.*

**After Clause 51**

BARONESS RANDERSON  
LORD BRUCE OF BENNACHIE

52 Insert the following new Clause –

**“Agriculture**

The subsidy control requirements in Part 2 of this Act do not apply to –

**After Clause 51 - continued**

- (a) the giving of an agricultural subsidy, or
- (b) the making of a subsidy scheme, so far as it relates to the giving of agricultural subsidies.”

***Member’s explanatory statement***

*This new Clause would exempt agricultural subsidies from the subsidy control requirements.*

**Clause 52**

LORD PURVIS OF TWEED  
LORD FOX

53 Page 28, line 21, at end insert –

- “(c) if the subsidy or subsidy scheme is in connection with economic activity in Northern Ireland, in order to determine whether any EU regulations are required to be followed in its operation.”

***Member’s explanatory statement***

*This amendment would require a public authority to request a report from the CMA if the subsidy or subsidy scheme is in connection with economic activity in Northern Ireland.*

**Clause 55**

LORD MCNICOL OF WEST KILBRIDE  
LORD HOPE OF CRAIGHEAD  
LORD BRUCE OF BENNACHIE

54 Page 30, line 40, after “State” insert “, the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland”

***Member’s explanatory statement***

*This amendment extends the call-in powers under this section to the Devolved Administrations.*

LORD FOX

55 Page 30, line 40, after “State” insert “or appropriate local authority”

***Member’s explanatory statement***

*This amendment probes whether the call-in powers under this section should be extended to Local Authorities.*

LORD LAMONT OF LERWICK

55A★ Page 30, line 40, after “State” insert “or the CMA”

LORD MCNICOL OF WEST KILBRIDE  
LORD HOPE OF CRAIGHEAD  
LORD BRUCE OF BENNACHIE

56 Page 31, line 2, after “State” insert “, the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland”

**Member's explanatory statement**

*This amendment extends the call-in powers under this section to the Devolved Administrations.*

LORD FOX

57 Page 31, line 2, after “State” insert “or appropriate local authority”

**Member's explanatory statement**

*This amendment probes whether the call-in powers under this section should be extended to Local Authorities.*

LORD LAMONT OF LERWICK

57A★ Page 31, line 2, after “State” insert “or the CMA”

57B★ Page 31, line 7, leave out subsection (3) and insert –

- “(3) If a direction is made under this section by the Secretary of State –
- (a) the Secretary of State must send a copy of the direction to the public authority and the CMA, and
  - (b) the Secretary of State must publish the direction in such manner as they consider appropriate.
- (4) If a direction is made under this section by the CMA –
- (a) the CMA must send a copy of the direction to the public authority and the Secretary of State, and
  - (b) the CMA must publish the direction in such manner as they consider appropriate.”

LORD MCNICOL OF WEST KILBRIDE

LORD HOPE OF CRAIGHEAD

LORD BRUCE OF BENNACHIE

58 Page 31, line 7, after “State” insert “, the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland, as appropriate”

**Member's explanatory statement**

*This amendment extends the call-in powers under this section to the Devolved Administrations.*

LORD FOX

59 Page 31, line 7, after “State” insert “or appropriate local authority”

**Member's explanatory statement**

*This amendment probes whether the call-in powers under this section should be extended to Local Authorities.*

LORD MCNICOL OF WEST KILBRIDE

LORD HOPE OF CRAIGHEAD

LORD BRUCE OF BENNACHIE

60 Page 31, line 10, leave out “Secretary of State” and insert “relevant authority”

**Member's explanatory statement**

*This is a tidying up amendment consequential on previous amendments to this Clause in the name of Lord McNicol of West Kilbride.*

**Clause 58**

LORD LAMONT OF LERWICK

60A★ Page 32, line 31, after “State” insert “or the CMA”

**After Clause 62**

LORD MCNICOL OF WEST KILBRIDE

61 Insert the following new Clause—

**“Post-award investigations**

- (1) The CMA may conduct an investigation in relation to a subsidy that has been granted or a subsidy scheme that has been made.
- (2) A decision under subsection (1) may be made in relation to any subsidy or subsidy scheme in respect of which the CMA considers—
  - (a) that there has or may have been a failure to comply with the requirements of Chapters 1 and 2 of Part 2, or
  - (b) that there has or may have been a failure to comply with the transparency obligations set out in Chapter 3 of Part 2.
- (3) Where the CMA makes a decision to investigate a subsidy or scheme under subsection (1), it must direct the public authority to provide it with—
  - (a) any assessment carried out by the public authority as to whether the financial assistance fell within the meaning of “subsidy” or “subsidy scheme” for the purposes of this Act, and the reasons for that conclusion,
  - (b) any assessment carried out by the public authority as to whether the financial assistance, if assessed to constitute a subsidy or subsidy scheme, would comply with the requirements of Chapter 1 and 2 of Part 2 and the reasons for that conclusion,
  - (c) any evidence relevant to those assessments,
  - (d) in a case where such assessments were not provided, the reasons for the assessments not being provided,
  - (e) any information that the public authority failed to enter in the subsidy database in accordance with Chapter 3 of Part 2, and
  - (f) such other information as is specified in regulations under section 60(8)(a).
- (4) Where the CMA decides to conduct an investigation under subsection (1), the direction given under subsection (3) must be made before the end of 20 working days beginning with the day on which the subsidy is given or the scheme is made.
- (5) The CMA must send a copy of the direction given under subsection (3) to the public authority and the Secretary of State.

**After Clause 62 - continued**

- (6) The public authority must provide to the CMA the information required under subsection (3) before the end of the information period as defined in section 60(7).”

***Member’s explanatory statement***

*This new Clause would provide the CMA with the power to conduct post-award investigations in cases where it believes a public authority has or may have failed to comply with its requirements.*

**Clause 66**

LORD MCNICOL OF WEST KILBRIDE

62 Page 38, line 5, at end insert –

- “(2) The annual report must also contain an assessment by the CMA, on the basis of the reports it has prepared, of the extent to which the subsidy control regime under this Act is meeting its stated policy objectives.”

***Member’s explanatory statement***

*This amendment would require the CMA to opine, in its annual report, on the extent to which the new subsidy control system is meeting its stated policy objectives.*

BARONESS BOYCOTT

BARONESS SHEEHAN

LORD WHITTY

63 Page 38, line 5, at end insert –

- “(2) The annual report referred to in subsection (1) must include a review of the operation of this Act as it relates to progress towards the target in section 1 of the Climate Change Act 2008 (carbon target for 2050) and the targets set out in the Environment Act 2021.”

***Member’s explanatory statement***

*This amendment requires the CMA to consider the impact of the subsidy control regime as a whole on progress towards net zero and environmental goals in its annual report.*

**Clause 68**

LORD MCNICOL OF WEST KILBRIDE

LORD BRUCE OF BENNACHIE

64 Page 39, line 1, at end insert –

- “(3A) The Chair of the CMA Board may appoint up to three non-executive members to the Subsidy Advice Unit established under subsection (1) in order to ensure that the Unit includes at least one person with relevant experience in relation to each of Wales, Scotland and Northern Ireland.”

***Member’s explanatory statement***

*This amendment would allow the CMA Chair to appoint up to three non-executive members to ensure that the Unit includes at least one person with experience in relation to each of Wales, Scotland and Northern Ireland.*

**After Clause 69**

LORD MCNICOL OF WEST KILBRIDE  
LORD GERMAN

65 Insert the following new Clause—

**“CMA resourcing**

- (1) This Part may not come into force until the Secretary of State has—
  - (a) undertaken an assessment of the CMA’s capacity to undertake the functions contained within this Part, and
  - (b) laid before both Houses of Parliament a statement confirming whether, in the Secretary of State’s opinion, the CMA has the appropriate resourcing to meet its obligations under this Part.
- (2) If the assessment under subsection (1)(a) determines that the CMA is not sufficiently resourced, the statement under subsection (1)(b) must outline what steps Her Majesty’s Government intends to take to remedy this.”

***Member’s explanatory statement***

*This probing amendment seeks clarification around the CMA’s resourcing and general readiness to undertake the various new roles envisaged under the legislation.*

LORD PURVIS OF TWEED  
LORD FOX

66★ Insert the following new Clause—

**“Prohibition of references to the Office for Internal Market**

- (1) The United Kingdom Internal Market Act 2020 is amended as follows.
- (2) In section 32 (Office for the Internal Market panel and task groups) after subsection (1) insert—
 

“(1A) The CMA may not make a reference of a subsidy or subsidy scheme under the Subsidy Control Act 2022 to an Office for the Internal Market task group.””

***Member’s explanatory statement***

*This amendment seeks to probe the interaction between this bill and the United Kingdom Internal Market Act 2020.*

**Clause 70**

LORD THOMAS OF CWMGIEDD  
LORD LAMONT OF LERWICK

67 Page 39, line 33, after “decision” insert “or, where the CMA has made a report on a subsidy or subsidy scheme after a referral under section 53, 57 or 61 in respect of which a subsidy decision has been made, the CMA”

***Member’s explanatory statement***

*The purpose of the amendment is to give the CMA standing to exercise enforcement powers through the Competition Appeal Tribunal in respect of decisions on subsidies where it has made a report.*



LORD MCNICOL OF WEST KILBRIDE

68 Page 39, line 35, leave out subsection (2)

***Member's explanatory statement***

*This amendment would allow individual subsidies given under a subsidy scheme to be reviewed, without the requirement for the broader subsidy scheme to be reviewed too.*

LORD THOMAS OF CWMGIEDD  
LORD MCNICOL OF WEST KILBRIDE  
BARONESS RANDESON  
LORD HOPE OF CRAIGHEAD

69 Page 40, line 16, at end insert “, the Scottish Ministers, the Welsh Ministers or a Northern Ireland department”

***Member's explanatory statement***

*The purpose of this amendment is to remove any doubts about the position of the devolved governments being interested parties.*

**Clause 71**

LORD MCNICOL OF WEST KILBRIDE

70 Page 40, line 37, leave out “one month” and insert “three months”

***Member's explanatory statement***

*This amendment would extend the time limit for applications to the tribunal under Clause 70 from one month to three.*

**After Clause 73**

LORD FOX  
LORD LAMONT OF LERWICK

71 Insert the following new Clause—

**“CAT powers for pre-emptive enforcement**

- (1) The Competition Appeal Tribunal may pre-emptively investigate a subsidy decision without an application if it has reasonable suspicion that it does not comply with the subsidy control principles as outlined in this Act.
- (2) The Tribunal must produce a report of the outcome of any investigation under subsection (1).
- (3) The Tribunal must also—
  - (a) publish the report on its website, and
  - (b) send a copy of the report to the Secretary of State and any relevant national or local authority.”

***Member's explanatory statement***

*This amendment probes whether the CAT should have a pre-emptive enforcement role.*

**After Clause 77**

LORD PURVIS OF TWEED  
LORD FOX

72 Insert the following new Clause –

**“Duty of the CMA to act even-handedly**

- (1) The CMA must, in carrying out its functions under this Part, have regard to the need to act even-handedly as respects relevant national authorities .
- (2) “Relevant national authority” means any of the following –
  - (a) the Secretary of State;
  - (b) the Scottish Ministers;
  - (c) the Welsh Ministers;
  - (d) a Northern Ireland department.”

***Member’s explanatory statement***

*This amendment would place a duty on the CMA to have regard to the need to act even-handedly as respects the relevant national authorities.*

**Clause 78**

LORD CALLANAN

73 Page 45, line 15, leave out from second “of” to end of line 16 and insert “financial assistance provided, or schemes for the provision of financial assistance made, by means of primary legislation.

- (2) Nothing in this Act applies to the giving of any such assistance, or to the making of any such schemes, except so far as provided for by that Schedule.”

***Member’s explanatory statement***

*This amendment clarifies that the subsidy control requirements under the Bill apply in the case of financial assistance provided directly by primary legislation only so far as provided for by Schedule 3 to the Bill.*

**Clause 79**

LORD GERMAN

74 Page 45, line 18, after “issue” insert “non-binding”

***Member’s explanatory statement***

*This amendment probes how guidance under Clause 79 will be issued.*

LORD MCNICOL OF WEST KILBRIDE  
LORD HOPE OF CRAIGHEAD  
LORD GERMAN

75 Page 46, line 10, at end insert –

- “(5A) Before issuing guidance under this section, the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

**Clause 79 - continued**

- (5B) If consent to the issuing of guidance is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may issue guidance without that consent.
- (5C) If guidance is issued in reliance on subsection (5B), the Secretary of State must publish a statement explaining why the Secretary of State decided to issue the guidance without the consent of the authority or authorities concerned.”

***Member’s explanatory statement***

*This amendment would require the Secretary of State to gain the consent of the Devolved Administrations before issuing guidance under Clause 79.*

LORD CALLANAN

76 Page 46, line 13, at end insert –

“(7) The requirement in subsection (5) may be met by consultation carried out before this section comes into force.”

***Member’s explanatory statement***

*This amendment ensures that the requirement in Clause 79(5) to consult on the guidance issued under Clause 79 may be met by consultation on the guidance carried out before the Act comes into force.*

**Clause 82**

LORD CALLANAN

77 Page 47, line 35, at end insert –

“(e) provision in regulations or schemes made under this Act.”

***Member’s explanatory statement***

*This amendment ensures that regulations made under Clause 82 may make provision about how the gross cash amount and the gross cash equivalent amount are to be determined for the purposes of regulations or schemes made under the Act.*

**After Clause 83**

LORD PURVIS OF TWEED

LORD FOX

78★ Insert the following new Clause –

**“UK internal market**

A subsidy or a subsidy scheme under the provisions of this Act –

- (a) is not to be regarded as a regulatory provision under the United Kingdom Internal Market Act 2020, and
- (b) is not to be considered as impacting upon the effective operation of the internal market of the United Kingdom.”

***Member's explanatory statement***

*This amendment seeks to probe the interaction between this bill and the United Kingdom Internal Market Act 2020.*

LORD GERMAN

79 Insert the following new Clause—

**“Dispute resolution: Heads of Governments Council**

Any dispute between the UK Government and the devolved administrations arising from the interpretation of measures in and under this Act in respect of their respective roles and responsibilities must be referred to the Prime Minister and Heads of Governments Council for resolution.”

***Member's explanatory statement***

*This amendment would require disputes between the UK Government and the Devolved Administrations on subsidies to be referred to the Prime Minister and Heads of Governments Council (as outlined in the Intergovernmental Relations Review) for resolution.*

**Clause 85**

LORD BERKELEY

80 Page 48, line 20, leave out paragraph (c)

***Member's explanatory statement***

*This amendment is to probe the application of the Act to the Duchy of Cornwall.*

# Subsidy Control Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*31 January 2022*

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