

# Subsidy Control Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of Consideration motion tabled for 21st March 2022, in anticipation of its agreement, 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 2**

VISCOUNT CHANDOS

**1★** Page 2, line 26, after “grants” insert “, investment in equity securities”

***Member’s explanatory statement***

*This amendment would specifically include investment in equity securities on the face of the Bill, as well as it being an example in the Illustrative Regulations and Guidance.*

**Schedule 1**

LORD CALLANAN  
BARONESS BLAKE OF LEEDS  
LORD RAVENSDALE

**2** Page 52, line 7, after “as” insert “local or regional disadvantage,”

***Member’s explanatory statement***

*This amendment clarifies that Principle A of the subsidy control principles covers subsidies aimed at addressing local or regional disadvantage.*

BARONESS BOYCOTT  
LORD WHITTY

**3★** Page 53, line 6, at end insert –  
“(c) progress towards targets under section 1 of the Climate Change Act 2008 (UK net zero emissions target), and section 5 of the Environment Act 2021 (environmental targets).”

***Member's explanatory statement***

*This amendment requires public authorities to consider whether proposed subsidies would have any negative effects on progress towards the UK's legally binding net zero and environmental targets.*

BARONESS RANDERSON  
LORD BRUCE OF BENNACHIE

4★ Page 53, line 6, at end insert –

*“Agricultural subsidies*

H Subsidies for agriculture should, in addition to being connected to the purposes under section 1 of the Agriculture Act 2020, take particular account of areas of agriculture disadvantage and levels of marginality of land.”

***Member's explanatory statement***

*This amendment would require agriculture subsidies to take particular account of areas of agriculture disadvantage and levels of marginality of land.*

**Schedule 2**

BARONESS BENNETT OF MANOR CASTLE

5 Page 54, line 3, at end insert –

“(d) the subsidy is given for small projects meeting one or more of the following descriptions –

- (i) electricity generation or storage projects below or equal to 1 MW of installed capacity;
- (ii) demand-side measures which reduce overall energy usage or carbon intensity, with a maximum demand less than or equal to 1 MW;
- (iii) low-carbon heat generation and low-carbon gas production technologies below or equal to 1 MW of installed capacity or equivalent;
- (iv) renewable energy projects (except wind generation) that are entirely owned by small or medium-sized enterprises or local communities, that have less than or equal to 6 MW installed capacity or maximum demand;
- (v) wind generation projects that are entirely owned by small or medium-sized enterprises or local communities, that have less than or equal to 18 MW of installed capacity;
- (vi) energy efficiency measures which benefit small and medium-sized enterprises, where beneficiaries receive less than £300,000 per project;
- (vii) innovative technology which has resulted from research and development conducted by the beneficiary, or by another entity where the beneficiary has acquired the rights to use the results of research and development or where the beneficiary is among the first in its sector to use the innovative technology or an innovative combination of existing technologies.”

**Clause 10**

LORD THOMAS OF CWMGIEDD  
LORD HOPE OF CRAIGHEAD  
LORD WIGLEY  
BARONESS RANDESON

- 6 Page 6, line 31, after “Crown” insert “of his or her own accord or by a Minister of the Crown upon a reasonable request to make such a scheme addressed to him or her by the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland”

LORD CALLANAN

- 7 Page 6, line 36, at end insert—
- “(6A) If, within the 40-day period, either House of Parliament resolves not to approve the scheme, or the scheme as modified, then, with effect from the end of the day on which the resolution is passed, the scheme, or the scheme as modified, is to be treated as not having been made.
- (6B) Nothing in subsection (6A)—
- (a) affects any subsidies given under the scheme before the end of the day on which the resolution is passed, or
  - (b) prevents a further scheme being laid before Parliament.
- (6C) In this section, “the 40-day period” means—
- (a) if the scheme is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or
  - (b) if the scheme is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.
- (6D) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.”

***Member’s explanatory statement***

*This amendment provides that the making of streamlined subsidy schemes is subject to the negative resolution procedure and provides for the legal consequences if such schemes are not approved.*

**Clause 11**

LORD CALLANAN

- 8 Page 7, line 8, after “reference” insert “(among other things)”

***Member’s explanatory statement***

*This amendment clarifies that the list in subsection (2) of what may be covered in regulations is intended to be non-exhaustive.*

**After Clause 12**

LORD THOMAS OF CWMGIEDD  
 LORD RAVENSDALE  
 LORD HOPE OF CRAIGHEAD  
 LORD WIGLEY

9 Insert the following new Clause—

**“Determination of the equity rationale for a subsidy**

- (1) This section applies where a public authority is considering whether to give a subsidy that has been proposed to pursue a policy objective to address an equity rationale.
- (2) Where the proposed equity rationale relates to social difficulties or distributional concerns, in considering whether the rationale is valid the public authority must ensure that the following conditions are met—
  - (a) the social difficulties or distributional concerns must be determined solely by reference to economic deprivation in the geographic area in which the subsidy is to be made available,
  - (b) economic deprivation must be objectively determined on the basis of specific factors specified in regulations made by the Secretary of State, including gross domestic product per person, earnings from employment per person and the employment rate,
  - (c) the proposed subsidy must be set at a level that is objectively justifiable and proportionate to the extent of the economic deprivation of the geographic area, and
  - (d) the efficacy of the strategy under which the subsidy is to be paid in reducing the identified economic deprivation must be demonstrated.
- (3) Where the proposed equity rationale relates to something other than social difficulties or distributional concerns, in considering whether the rationale is valid the public authority must ensure that any conditions specified in regulations made by the Secretary of State have been met.”

**Clause 16**

LORD CALLANAN

10 Page 9, line 22, leave out from “if” to end of line 23 and insert “regulations made by the Secretary of State provide for the marketable risk country to be so treated.”

***Member’s explanatory statement***

*This amendment provides that the power to provide that a country is not to be treated as a marketable risk country is exercised by making regulations, rather than by giving a direction.*

11 Page 9, line 24, leave out “give a direction” and insert “make regulations”

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 9, line 22, in the Minister’s name.*

- 12 Page 9, line 30, leave out from “must” to “if” in line 31 and insert “by further regulations under subsection (4) revoke regulations under that subsection in respect of a marketable risk country”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 9, line 22 and places the Secretary of State under a duty to revoke the regulations made under subsection (4) if a subsection (5) condition is no longer met.*

- 13 Page 9, line 33, leave out subsection (7) and insert –  
“(7) Regulations under subsection (4) are subject to the negative procedure.”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 9, line 22.*

**Clause 18**

LORD CALLANAN  
LORD RAVENSDALE  
BARONESS BLAKE OF LEEDS

- 14 Page 10, line 24, at end insert –
- “(4) The prohibition in subsection (1) does not apply if the public authority giving the subsidy is satisfied that the conditions in subsections (5) to (7) are met.
  - (5) The condition in this subsection is that the effect of the subsidy is to reduce the social or economic disadvantages of the area that would benefit from the giving of the subsidy.
  - (6) The condition in this subsection is that the giving of the subsidy results in an overall reduction in the social or economic disadvantages within the United Kingdom generally.
  - (7) The condition in this subsection is that the subsidy is designed to bring about a change in the size, scope or nature of the existing economic activities referred to in subsection (1)(a).”

***Member’s explanatory statement***

*This amendment provides an exemption to the prohibition on relocation of activities by allowing subsidies that meet conditions on reducing social or economic disadvantage.*

**Clause 25**

LORD CALLANAN

- 15 Page 13, line 32, leave out subsections (4) to (6)

***Member’s explanatory statement***

*This amendment removes the Treasury power to make regulations to alter the meaning of “deposit taker”.*

**Clause 26**

LORD CALLANAN

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

***Member's explanatory statement***

*This amendment removes the Treasury power to make regulations to alter the meaning of "insurance company".*

**Clause 27**

LORD CALLANAN

17 Page 14, line 40, leave out subsections (3) to (5)

***Member's explanatory statement***

*This amendment removes the Treasury power to make regulations to alter the meaning of "insurer".*

**Clause 32**

LORD CALLANAN

18 Page 17, line 17, at end insert “, and  
 (c) the subsidy database is kept under review in such manner and at such intervals as the Secretary of State considers appropriate.”

***Member's explanatory statement***

*This amendment adds a duty on the Secretary of State to keep the subsidy database under review.*

**Clause 33**

LORD CALLANAN

19 Page 17, line 28, leave out “£500,000” and insert “£100,000”

***Member's explanatory statement***

*This amendment reduces the threshold for the exemption from the requirement to upload to the subsidy database from £500,000 to £100,000.*

LORD MCNICOL OF WEST KILBRIDE

LORD FOX

20★ Page 17, line 28, at end insert –

“(2A) If, within the period of 12 months beginning with the day on which a public authority awards a subsidy to a beneficiary under a subsidy scheme, the awarding of any additional subsidies to that beneficiary under the same scheme would lead to a cumulative award in excess of the amount specified in subsection (2)(c), the public authority must, as soon as practicable, meet the requirements under subsection (1) in respect of each award.”

**Member's explanatory statement**

*This amendment is intended to prevent public authorities awarding any single beneficiary multiple in-scheme subsidies over a 12-month period, in order to evade the requirement to report on payments over £100,000 (see amendment to Clause 33 in the name of Lord Callanan). It does not prevent an authority from making multiple payments to a single beneficiary but would ensure payments are disclosed on the subsidy database where the cumulative amount is over £100,000.*

LORD CALLANAN

- 21 Page 17, line 31, after “given” insert “as a subsidy”

**Member's explanatory statement**

*This amendment ensures that the one year deadline for uploading to the subsidy database only applies to tax subsidies.*

- 22 Page 17, line 32, at end insert –

“(aa) if made as a subsidy scheme in the form of a tax measure, within three months of the confirmation of the decision to make the scheme, or”

**Member's explanatory statement**

*This amendment provides a 3 month deadline for uploading tax schemes to the subsidy database.*

- 23 Page 17, line 33, leave out “in any other form, within six” and insert “or made in any other form, within three”

**Member's explanatory statement**

*This amendment reduces the time limit for making an entry in the subsidy database from 6 months to 3 months in respect of a subsidy or scheme given in a form other than a tax measure.*

- 24 Page 17, line 41, leave out “, or a subsidy scheme made,”

**Member's explanatory statement**

*This amendment ensures that the one year deadline for uploading modifications to the subsidy database only applies to tax subsidies.*

- 25 Page 17, line 41, at end insert –

“(aa) within three months of the date of the modification, in respect of a subsidy scheme made in the form of a tax measure, or”

**Member's explanatory statement**

*This amendment provides a 3 month deadline for uploading modifications to tax schemes to the subsidy database.*

- 26 Page 18, line 1, leave out “six” and insert “three”

**Member's explanatory statement**

*This amendment reduces the time limit from 6 months to 3 months for making an entry into the database with regard to modifications to a subsidy or scheme given in a form other than a tax measure.*

- 27 Page 18, line 3, leave out from “apply” to end of line 4 and insert “to the modification of a subsidy if—
- (a) the subsidy is one to which subsection (2) applied, and
  - (b) the amount of the subsidy as modified is no more than the applicable amount.
- (6A) For the purpose of subsection (6)(b) “the applicable amount” is—
- (a) the amount specified in subsection (2)(c), or
  - (b) if regulations under subsection (8)(b) provide for a different amount in relation to the subsidy, that amount.”

**Member's explanatory statement**

*This amendment is consequential on the amendment in the Minister's name at page 46, line 39 and defines the limits of the exemption from the database requirements in relation to modifications for subsidies given under a scheme.*

- 28 Page 18, line 11, leave out from “regulations” to end of line 13 and insert “—
- (a) substitute a different amount for the amount specified in subsection (2)(c);
  - (b) provide for a different amount to apply, instead of an amount specified in subsection (2)(c), in the case of particular descriptions of subsidy.
- (8A) An amount specified in regulations under subsection (8) may not exceed £500,000.”

**Member's explanatory statement**

*This amendment amends the regulation-making power to ensure that the transparency thresholds can be amended but also that they are capped.*

- 29 Page 18, line 13, at end insert—
- “(8B) The Secretary of State may by regulations—
- (a) amend subsections (3) and (5) so as to substitute a different period of time for the period of time specified;
  - (b) provide for a different period of time to apply, instead of a period of time specified in subsection (3) and (5) in the case of particular descriptions of subsidy or subsidy scheme.
- (8C) A period of time specified in regulations under subsection (8B) may not exceed—
- (a) one year in respect of a subsidy given in the form of a tax measure;
  - (b) one year in respect of a subsidy scheme made in the form of a tax measure;
  - (c) six months in respect of a subsidy given or scheme made in any other form.”

**Member's explanatory statement**

*This amendment provides a power to make regulations to amend the time limits in Clause 33 for making entries in the subsidy database, subject to a cap.*

- 30 Page 18, line 14, leave out “are subject to the negative procedure” and insert “or (8B) are subject to the affirmative procedure.”

**Member's explanatory statement**

*This amendment provides that regulations made under subsection (8) and under the power inserted by the amendment in the Minister's name at page 18, line 13, are subject to the affirmative procedure.*

**Clause 36**

LORD CALLANAN

- 31 Page 19, line 28, at end insert –

“(3A) In subsection (1), the reference to the subsidy control requirements does not include the requirements as to transparency in Chapter 3 of Part 2 except in relation to the giving of a subsidy as minimal financial assistance if the amount of the subsidy is no more than £100,000.”

**Member's explanatory statement**

*This amendment removes the exemption from the transparency requirements in relation to minimal financial assistance, in respect of each individual subsidy which exceeds £100,000.*

**Clause 38**

LORD CALLANAN

- 32 Page 21, line 8, at end insert –

“(3A) In subsection (1), the reference to the subsidy control requirements does not include the requirements as to transparency in Chapter 3 of Part 2 except in relation to the giving of a subsidy as SPEI assistance if the amount of the subsidy is no more than £100,000.”

**Member's explanatory statement**

*This amendment removes the exemption from the transparency requirements in relation to services of public economic interest assistance, in respect of each individual subsidy which exceeds £100,000.*

**Clause 41**

LORD CALLANAN

- 33 Page 23, line 13, leave out from “requirements” to end of line 30 and insert “as to transparency in Chapter 3 of Part 2 do not apply to a subsidy given to a SPEI enterprise for the purpose of the provision of SPEI services, where the subsidy is no more than £100,000.”

**Member's explanatory statement**

*This amendment removes the exemptions from the transparency requirements for SPEI subsidies over £100,000.*

34 Page 23, line 31, leave out “(a)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 13.*

**Clause 42**

LORD CALLANAN

35 Page 23, line 39, leave out “(a)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 13.*

36 Page 23, line 40, leave out “of total assistance”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 13.*

37 Page 23, line 40, leave out “for the time being”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 43.*

38 Page 23, line 42, leave out “(a)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 13.*

39 Page 23, line 43, at end insert –

- “(c) amend section 36(3A) or 38(3A) so as to substitute a different amount for the amount specified;
- (d) provide for a different amount to apply, instead of an amount specified in section 36(3A) or 38(3A), in the case of particular descriptions of subsidy.”

***Member’s explanatory statement***

*This amendment allows the new transparency thresholds inserted by the amendments in the Minister’s name at page 19, line 28 and at page 21, line 8, to be amended by regulations.*

40 Page 23, line 45, leave out “only”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 46.*

- 41 Page 23, line 46, leave out “equivalent to” and insert “up to an equivalent of”

***Member’s explanatory statement***

*This amendment ensures that Clause 42(2) operates to provide a cap on the amounts that may be specified by regulations under Clause 42(1).*

- 42 Page 24, line 6, leave out “(a)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the Minister’s name at page 23, line 13.*

- 43 Page 24, line 16, at end insert –

“(3A) An amount specified in regulations under subsection (1)(c) or (d) which amend section 36(3A) may not exceed the amount specified in section 36(1).

(3B) An amount specified in regulations under subsection (1)(c) or (d) which amend section 38(3A) may not exceed the amount specified in section 38(1).”

***Member’s explanatory statement***

*This amendment ensures that where the new transparency thresholds inserted by the amendments in the Minister’s name at page 19, line 28 and at page 21, line 8, are amended by regulations, they are subject to a cap.*

- 44 Page 24, line 17, leave out “(a) or (b)”

***Member’s explanatory statement***

*This amendment provides that regulations made under the power inserted by the amendment in the Minister’s name at page 23, line 43, are subject to the affirmative procedure.*

**Clause 47**

LORD CALLANAN

- 45 Page 26, line 26, at end insert “, and  
(b) be laid before Parliament.”

***Member’s explanatory statement***

*This amendment provides that a financial stability direction is to be laid before Parliament.*

- 46 Page 26, line 27, leave out subsection (7) and insert –

“(7) If the Treasury considers that the steps required by subsection (6) would have the effect of undermining the purpose for which the direction is given, the Treasury may delay the carrying out of those steps until such time as it is satisfied that to do so would not have that effect.”

***Member’s explanatory statement***

*This amendment ensures that the exemption from the requirement to publish a financial stability direction and lay it before Parliament is temporary; the exemption may only be relied on for as long as the Treasury considers publication would undermine the purpose for which the direction is given.*

**Clause 55**

LORD LAMONT OF LERWICK  
LORD MCNICOL OF WEST KILBRIDE  
LORD FOX

- 47 Page 30, line 40, after “State” insert “or the CMA”
- 48 Page 31, line 2, after “State” insert “or the CMA”
- 49 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.”

**Clause 58**

LORD LAMONT OF LERWICK  
LORD MCNICOL OF WEST KILBRIDE  
LORD FOX

- 50 Page 32, line 31, after “State” insert “or the CMA”

**Clause 65**

BARONESS BOYCOTT  
BARONESS SHEEHAN  
BARONESS ALTMANN

- 51 Page 37, line 12, at end insert –
- “(c) the impact of the operation of this Act on progress towards the target in section 1 of the Climate Change Act 2008 (UK net zero emissions target), and the targets in section 5 of the Environment Act 2021 (environmental targets).”

***Member’s explanatory statement***

*This amendment requires the CMA to consider the impact of the subsidy control regime as a whole on progress towards the UK’s climate and environmental goals in its review.*

LORD CALLANAN

- 52 Page 37, line 17, leave out “fifth” and insert “third”

**Member's explanatory statement**

*This amendment changes the reporting requirement so that the CMA must prepare its first report three years after commencement instead of five years after commencement.*

- 53 Page 37, line 18, after “falls” insert –  
 “(aa) the following period of three years”

**Member's explanatory statement**

*This amendment provides that the CMA must prepare its second report three years after its first report, instead of five years after its first report.*

- 54 Page 37, line 21, at end insert –  
 “(4A) The Secretary of State may exercise the power in subsection (4) only after the CMA has prepared its reports in relation to the first two relevant periods mentioned in subsection (3).”

**Member's explanatory statement**

*This amendment ensures that the Secretary of State can only direct the CMA to report on specified periods after the first two reports in respect of the first two relevant periods under subsection (3) have been prepared.*

**After Clause 67**

LORD THOMAS OF CWMGIEDD  
 LORD HOPE OF CRAIGHEAD  
 LORD WIGLEY  
 LORD FOX

- 55 Insert the following new Clause –

**“Role of CMA and devolved governments in call-in and enforcement**

- (1) The CMA, the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland –
  - (a) may exercise the powers provided to the Secretary of State under section 55 to direct a public authority to request a report from the CMA in relation to a subsidy or subsidy scheme of interest or a subsidy scheme,
  - (b) may refer a subsidy or subsidy scheme to the CMA under section 60, and
  - (c) are interested parties for the purposes of Part 5.
- (2) For the purposes of the requirement in section 55(2)(b) and section 60(2), the power to make a direction or a reference may be exercised if the body making the direction or reference under subsection (1) considers that –
  - (a) there is, or has been or may have been, a risk of failure to comply with the requirements of Chapters 1 and 2 of Part 2, or
  - (b) there is a risk of negative effects on competition or investment within the United Kingdom.

**After Clause 67 - continued**

- (3) If a direction is given under section 55 or a reference made under section 60 by virtue of subsection (1), the person making the direction or reference must send a copy of the direction or reference to the Secretary of State, the public authority and the other bodies listed in subsection (1) and must publish the direction or reference in such manner as the Secretary of State thinks appropriate.
- (4) The provisions of section 58 apply when a call-in direction has been given under the powers contained in this section.”

**Clause 70**

LORD MCNICOL OF WEST KILBRIDE  
LORD FOX

56★ Page 39, line 35, leave out subsection (2)

***Member’s explanatory statement***

*This amendment removes the restriction on challenging individual subsidies given under a subsidy scheme.*

**Clause 71**

LORD MCNICOL OF WEST KILBRIDE  
LORD FOX

57★ Page 40, line 37, leave out “one month” and insert “two months”

***Member’s explanatory statement***

*This amendment would extend the application window for challenging a subsidy in the Competition Appeal Tribunal from one month to two months.*

**Schedule 3**

LORD THOMAS OF CWMGIEDD

58★ Page 57, line 1, leave out paragraphs 6 and 7 and insert –

*“Scrutiny of Bills for compatibility with the principles in Chapter 1 of Part 2*

- 6 (1) The relevant Law Officer may refer the question whether a Bill, or a provision of a Bill, of the Scottish Parliament is compatible with the principles referred to in Chapter 1 of Part 2 for decision by the Supreme Court.
- (2) Subject to sub-paragraph (3), the relevant Law Officer may make a reference in relation to such a Bill at any time during –
  - (a) the period of four weeks beginning with the passing of the Bill, and
  - (b) any period of four weeks beginning with any approval of the Bill in accordance with standing orders made by virtue of section 36(5) of the Scotland Act 1998.

**Schedule 3 - continued**

- (3) The relevant Law Officer may not make a reference in relation to a Bill if the Law Officer has notified the Presiding Officer of the Scottish Parliament that he or she does not intend to make a reference in relation to the Bill, unless the Bill has been approved as mentioned in sub-paragraph (2)(b) since the notification.
  - (4) The standing orders must make provision for delay to the consideration or disposal of the Bill during the period set out in sub-paragraph (2) or, if a reference is made to the Supreme Court, during the pendency of the reference.
  - (5) In this paragraph, “relevant Law Officer” means the Advocate General for Scotland, the Lord Advocate for Scotland or the Attorney General for England and Wales.
- 7
- (1) The Counsel General for Wales or the Attorney General for England and Wales may refer the question whether a Bill, or a provision of a Bill, of Senedd Cymru is compatible with the principles referred to in Chapter 1 of Part 2 for decision by the Supreme Court.
  - (2) Subject to sub-paragraph (3), the Counsel General or the Attorney General may make a reference in relation to a Bill at any time during—
    - (a) the period of four weeks beginning with the passing of the Bill, and
    - (b) any period of four weeks beginning with approval of the Bill in accordance with provision included in the standing orders in compliance with section 22 of the Government of Wales Act 2006.
  - (3) No reference may be made in relation to a Bill—
    - (a) by the Counsel General if the Counsel General has notified the Presiding Officer of Senedd Cymru that no reference is to be made in relation to it by the Counsel General, or
    - (b) by the Attorney General if the Attorney General has notified the Presiding Officer that no reference is to be made in relation to it by the Attorney General.
  - (4) But sub-paragraph (3) does not apply if the Bill has been approved as mentioned in sub-paragraph (2)(b) since the notification.
  - (5) The standing orders must make provision for delay to the consideration or disposal of the Bill during the period set out in sub-paragraph (2) or, if a reference is made to the Supreme Court, during the pendency of the reference.
- 7A(1)
- (1) The relevant Law Officer may refer the question whether a Bill, or a provision of a Bill, of the Northern Ireland Assembly is compatible with the principles referred to in Chapter 1 of Part 2 to the Supreme Court for decision.
  - (2) Subject to sub-paragraph (3), the relevant Law Officer may make a reference in relation to a provision of a Bill at any time during—
    - (a) the period of four weeks beginning with the passing of the Bill, and
    - (b) the period of four weeks beginning with any subsequent approval of the Bill in accordance with standing orders made by virtue of section 41 of the Northern Ireland Act 1998.

**Schedule 3 - continued**

- (3) If the relevant Law Officer notifies the Presiding Officer of the Northern Ireland Assembly that the Law Officer does not intend to make a reference in relation to a provision of a Bill, the Law Officer may not make such a reference unless, after the notification, the Bill is approved as mentioned in sub-paragraph (2)(b).
- (4) The standing orders must make provision for delay to the consideration or disposal of the Bill during the period set out in sub-paragraph (2) or, if a reference is made to the Supreme Court, during the pendency of the reference.
- (5) In this paragraph, “relevant Law Officer” means the Advocate General for Northern Ireland, the Lord Advocate for Northern Ireland, or the Attorney General for England and Wales.”

LORD CALLANAN

59 Page 58, line 4, leave out “(1)(a) and (b)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 46, line 39 in the Minister’s name, and provides that for the purposes of paragraph 8 of Schedule 3, the Clause 33 references to subsidies and schemes are taken to refer to those provided by primary legislation.*

**Clause 79**

LORD CALLANAN

60 Page 45, line 30, at end insert –  
“(ea) section 76 (duty to provide pre-action information);”

***Member’s explanatory statement***

*This amendment adds the duty to provide pre-action information to the list of matters in Clause 79 on which the Secretary of State may issue guidance.*

BARONESS BOYCOTT  
LORD WHITTY

61★ Page 46, line 2, at end insert –  
“(e) how public authorities should assess the effects of the relevant subsidy with respect to section 1 of the Climate Change Act 2008 (UK net zero emissions target), and section 5 of the Environment Act 2021 (environmental targets).”

***Member’s explanatory statement***

*This amendment states that guidance issued by the Secretary of State may include how public authorities should assess the effects of a subsidy in relation to the UK’s climate and environmental targets in relation to the subsidy control principles, the energy and environment principles and other requirements in the Bill.*

**Clause 81**

LORD CALLANAN

- 62 Page 46, line 39, leave out from “apply” to end of line 40 and insert “–  
 (a) for the purposes of section 33(1) and (3) (see instead section 33(5)), or  
 (b) if the modification is only a permitted modification (but section 33(5) applies to a permitted modification as it applies to other modifications).”

***Member’s explanatory statement***

*This amendment removes the exemption from the duty to enter modifications in the subsidy database, in relation to permitted modifications.*

**Clause 87**

LORD CALLANAN

- 63 Page 49, line 20, leave out “first” and insert “second”

***Member’s explanatory statement***

*This amendment provides that the sunset provision for the Part 4 regulation-making powers will be triggered by the second report that the CMA makes under section 65, rather than the first report.*

**After Clause 87**

LORD THOMAS OF CWMGIEDD

LORD HOPE OF CRAIGHEAD

LORD WIGLEY

LORD FOX

- 64 Insert the following new Clause –

**“Consent of the devolved governments in relation to regulations and guidance**

- (1) Where under sections 11, (*Determination of the equity rationale for a subsidy*), 33, 34 and 59, the Secretary of State has power to make regulations and where in section 79 the Secretary of State has power to issue guidance, such regulations can only be made and such guidance can only be issued after the Secretary of State has sought the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (2) If consent is not given by the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland within the period of one month beginning with the day on which such consent is sought, the Secretary of State may make such regulations or issue such guidance.
- (3) If regulations are made in reliance on subsection (2), the Secretary of State must publish a statement setting out the reasons for the Secretary of State’s decision to make such regulations or issue such guidance without the consent of such of the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland as has not given consent.”

# Subsidy Control Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*18 March 2022*

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