

# Procurement Bill [HL]

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*The amendments have been marshalled in accordance with the Order of Consideration motion tabled for 28th November 2022, in anticipation of its agreement, as follows –*

Clauses 1 and 2	Clauses 55 to 69
Schedules 1 and 2	Schedule 8
Clause 3	Clauses 70 to 83
Schedule 3	Schedule 9
Clauses 4 and 5	Clauses 84 to 108
Schedule 4	Schedule 10
Clauses 6 to 39	Clauses 109 and 110
Schedule 5	Schedule 11
Clauses 40 to 54	Clauses 111 to 119
Schedules 6 and 7	Title.

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

**Amendment  
No.**

**Before Clause 1**

BARONESS NEVILLE-ROLFE

**1** Insert the following new Clause –

**“Procurement and covered procurement**

- (1) In this Act –
  - (a) “procurement” means the award, entry into and management of a contract;
  - (b) “covered procurement” means the award, entry into and management of a public contract.
- (2) In this Act, a reference to a procurement or covered procurement includes a reference to –
  - (a) any step taken for the purpose of awarding, entering into or managing the contract;
  - (b) a part of the procurement;
  - (c) termination of the procurement before award.

**Before Clause 1 - continued**

- (3) In this Act, a reference to a contracting authority carrying out a procurement or covered procurement is a reference to a contracting authority carrying out a procurement or covered procurement –
- (a) on its own behalf, including where it acts jointly with or through another person other than a centralised procurement authority, and
  - (b) if the contracting authority is a centralised procurement authority –
    - (i) for or on behalf of another contracting authority, or
    - (ii) for the purpose of the supply of goods, services or works to another contracting authority.
- (4) In this Act, “centralised procurement authority” means a contracting authority that is in the business of carrying out procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities.”

**Member’s explanatory statement**

*This new Clause would distinguish between “procurements” and “covered procurements”, the latter relating specifically to public contracts, so that provision in the Bill can be more clearly applied to one or the other, and consolidate certain definitions previously found elsewhere.*

**Clause 1**

BARONESS NEVILLE-ROLFE  
BARONESS BENNETT OF MANOR CASTLE

2

Page 1, line 5, leave out from first “authority” to end of line 10 on page 2 and insert “,  
or

- (b) in the case of a utilities contract, a public authority, public undertaking or private utility,  
other than an excluded authority.
- (2) In this Act –
- “public authority” means a person that is –
    - (a) wholly or mainly funded out of public funds, or
    - (b) subject to public authority oversight,
 and does not operate on a commercial basis (but see subsection (8A));
  - “public undertaking” means a person that –
    - (a) is subject to public authority oversight, and
    - (b) operates on a commercial basis;
  - “private utility” means a person that –
    - (a) is not a public authority or public undertaking, and
    - (b) carries out a utility activity.
- (3) A person is subject to public authority oversight if the person is subject to the management or control of –
- (a) one or more public authorities, or
  - (b) a board more than half of the members of which are appointed by one or more public authorities.
- (4) The following are examples of factors to be taken into account in determining whether a person operates on a commercial basis –

**Clause 1 - continued**

- (a) whether the person operates on the basis that its losses would be borne, or its continued operation secured, by a public authority (whether directly or indirectly);
  - (b) whether the person contracts on terms more favourable than those that might reasonably have been available to it had it not been associated with a public authority;
  - (c) whether the person operates on a market that is subject to fair and effective competition.
- (5) The following authorities are excluded authorities –
- (a) a devolved Scottish authority;
  - (b) the Security Service, the Secret Intelligence Service and the Government Communications Headquarters;
  - (c) the Advanced Research and Invention Agency;
  - (d) any person that is subject to public authority oversight –
    - (i) only by reference to a devolved Scottish authority, or
    - (ii) by reference to an authority mentioned in paragraph (b) or (c).”

**Member’s explanatory statement**

*This amendment would change the definition of contracting authority to better deal with the difference between a public authority and public undertaking and to exclude certain bodies which, despite their relationship with public authorities, operate on a commercial basis.*

BARONESS BRINTON  
LORD SCRIVEN

*As an amendment to Amendment 2*

- 3** In subsection (2), in the definition of “public authority”, in paragraph (a), after “funds” insert “including the NHS”

**Member’s explanatory statement**

*This amendment includes the NHS in the definition of a public authority for the purposes of this Act.*

BARONESS NOAKES

*As an amendment to Amendment 2*

- 4** In subsection (3), leave out paragraph (b) and insert –
- “(3A) In subsection (3) whether a person is subject to the control of one or more authorities is to be determined in accordance with paragraph 2 of Schedule 2 except that sub-paragraph (3) of that paragraph does not apply.”

**Member’s explanatory statement**

*These amendments ensure that a common definition of control is used in the Bill.*

## BARONESS NEVILLE-ROLFE

5 Page 2, line 22, at end insert –

“(8A) For the purposes of this Act, a person that operates on a commercial basis but is, as a controlled person, awarded an exempted contract by a public authority in reliance on paragraph 2 of Schedule 2 (vertical arrangements) is to be treated as a public authority in relation to any relevant sub-contract.”

***Member’s explanatory statement***

*This amendment would ensure that bodies that are awarded contracts by virtue of being controlled by public authorities are treated as public authorities (and therefore as contracting authorities) in relation to contracts awarded for the purpose of performing that contract.*

6 Page 2, leave out line 25 and insert –

““relevant sub-contract” means a contract substantially for the purpose of performing (or contributing to the performance of) all or any part of the exempted contract;”

***Member’s explanatory statement***

*This amendment is connected to the Government amendment to add subsection (8A) and would define “relevant sub-contract”.*

**Schedule 1**

## BARONESS NEVILLE-ROLFE

7 Page 79, line 46, at end insert –

“(2) In this Schedule –

- (a) a reference to a contract for the supply of goods, services or works to a particular kind of authority includes a reference to a framework for the future award of such contracts;
- (b) a reference to a works contract includes a reference to a framework for the future award of works contracts.”

***Member’s explanatory statement***

*This amendment would ensure that frameworks are properly taken into account in applying the thresholds in Schedule 1.*

**Schedule 2**

## BARONESS NEVILLE-ROLFE

8 Page 80, line 5, at end insert “, or

- (b) a framework for the future award of contracts only of a kind listed in this Schedule.”

***Member’s explanatory statement***

*This amendment would ensure that frameworks only for exempted contracts are exempted contracts.*

BARONESS NOAKES  
LORD MOYLAN

9 Page 80, line 9, at end insert –

“(3) Sub-paragraph (2) does not apply to contracts of a kind described in paragraph 2 (vertical arrangements) or paragraph 3 (horizontal arrangements).”

***Member’s explanatory statement***

*This amendment disappplies the reasonableness test in sub-paragraph 2 to vertical and horizontal contracts so as to preserve the rules which currently apply to public service collaborations.*

BARONESS NEVILLE-ROLFE

10 Page 84, line 2, leave out from “contract” to end of line 3 and insert “that is required to be awarded in accordance with the public service obligations regulations.

(2) In this paragraph, “the public service obligations regulations” has the meaning given by section 136(11) of the Railways Act 1993.”

***Member’s explanatory statement***

*This amendment would specify what public passenger transport services are within scope of this exemption.*

11 Page 86, line 35, at end insert –

“32A A contract for the supply of goods, services or works wholly or mainly for the purpose of an activity that would be a utility activity if it were not specified in Part 2 of Schedule 4.”

***Member’s explanatory statement***

*This amendment would ensure that exemptions to the scope of utilities contracts under Part 2 of Schedule 4 apply to exempt those contracts from the Bill where entered into by public authorities.*

12 Page 86, line 40, leave out from “contract” to end of line 45 and insert “that –

(a) confers an exclusive right to operate a relevant scheduled air service for a period of four years or a series of periods falling within a period of four years, and

(b) imposes minimum service requirements in respect of that service during those periods.

(2) In this paragraph –

“air service” means a flight, or a series of flights, carrying passengers or cargo (including mail);

“airport” means any area especially adapted for air services;

“relevant scheduled air service” means an air service that –

(a) operates between two airports within the United Kingdom or within the United Kingdom and Gibraltar, and

(b) the Secretary of State considers to be necessary in order to maintain sufficient transport links between the areas served by the airports.”

***Member's explanatory statement***

*This amendment would more precisely define the concession contracts subject to this exemption.*

**Clause 5**

BARONESS NEVILLE-ROLFE

- 13 Page 4, line 2, leave out “of a kind specified in” and insert “specified in Part 1 of”

***Member's explanatory statement***

*This amendment is consequential on the Government amendment to paragraphs 7 and 8 of Schedule 4 and the insertion of a new Part of Schedule 4.*

- 14 Page 4, line 2, at end insert –  
 “(aa) is not specified in Part 2 of Schedule 4,”

***Member's explanatory statement***

*This amendment is consequential on the Government amendments to paragraphs 7 and 8 of Schedule 4 and the insertion of a new Part of Schedule 4.*

- 15 Page 4, line 3, at end insert “, and  
 (c) in the case of an activity carried out by a person that is not a public authority or public undertaking, is carried out pursuant to a special or exclusive right.”

***Member's explanatory statement***

*This amendment would ensure that a private utility is only a contracting authority in respect of the utility activities for which the utility has a special or exclusive right.*

- 16 Page 4, line 4, leave out subsection (3)

***Member's explanatory statement***

*This amendment is consequential on the Government amendment to subsection (2) inserting new paragraph (c).*

- 17 Page 4, line 21, at end insert –  
 “(5A) An appropriate authority may by regulations amend Part 2 of Schedule 4 for the purpose of –  
 (a) specifying an activity, or  
 (b) removing an activity.  
 (5B) Regulations under subsection (5A) may not specify an activity unless the authority is satisfied that –  
 (a) the activity is carried out on a market that is subject to fair and effective competition, and  
 (b) entry to that market is unrestricted.”

***Member's explanatory statement***

*This amendment would allow an appropriate authority to amend Part 2 of Schedule 4, which sets out activities which are not to fall within the definition of utility activity.*

## Schedule 4

BARONESS NEVILLE-ROLFE

- 18 Page 90, line 24, after second “the” insert “general”

***Member’s explanatory statement***

*This amendment would clarify that networks are to be available to the general public to fall within this utility activity.*

- 19 Page 90, line 26, leave out sub-paragraph (2)

***Member’s explanatory statement***

*This amendment would remove the definition of “network”.*

- 20 Page 91, line 2, leave out paragraphs 7 and 8

***Member’s explanatory statement***

*This amendment, and the Government amendments to Clause 5, would replace a process for exempting activities from being utility activities with those exempted activities being specified in a new Part 2 of Schedule 4.*

- 21 Page 91, line 43, after “this” insert “Part of this”

***Member’s explanatory statement***

*This amendment would be consequential on the division of Schedule 4 into two Parts.*

- 22 Page 92, line 3, at end insert –

“PART 2

ACTIVITIES THAT ARE NOT UTILITY ACTIVITIES

- 10 Generation of electricity in England, Scotland or Wales.
- 11 Production of electricity in England, Scotland or Wales.
- 12 Wholesale or retail sale of electricity in England, Scotland or Wales.
- 13 Wholesale or retail sale of gas in England, Scotland or Wales.
- 14 Exploration for oil in England, Scotland or Wales.
- 15 Exploration for natural gas in England, Scotland or Wales.
- 16 Production of oil in England, Scotland or Wales.
- 17 Production of natural gas in England, Scotland or Wales.
- 18 Development of infrastructure for production of oil in England, Scotland or Wales.
- 19 Development of infrastructure for production of natural gas in England, Scotland or Wales.”

***Member’s explanatory statement***

*This amendment would expressly set out the activities that are not to be utility activities under the Bill.*

## LORD LANSLEY

*As an amendment to Amendment 22***23★** Before paragraph 10, insert –

- “9A (1) The activities listed in paragraphs 10 to 19 of this Part are not utility activities.
- (2) Where the Competition and Markets Authority determines that an activity is carried out in a market in respect of which there is fair and effective competition and there is no restriction to access to that market, then the appropriate authority may by regulations amend the list in this Part to add that activity.
- (3) Where the Competition and Markets Authority determines that an activity is not, or no longer, carried out in a market in respect of which there is fair and effective competition or there are restrictions to access to that market, then the appropriate authority may by regulations amend the list in this Part to remove that activity.”

***Member’s explanatory statement****This amendment to the Government amendment would reintroduce a test of whether a utility activity is operating under competitive conditions.***Clause 9**

## BARONESS NEVILLE-ROLFE

**24** Page 7, line 10, after “contract” insert “of the same kind (or at all)”***Member’s explanatory statement****This amendment and the other Government amendments to this clause would ensure that one contract cannot benefit from the exceptions applicable to more than one special regime in circumstances where the contract could reasonably be split into more than one contract falling within different regimes.***25** Page 7, line 20, after “contract” insert “of the same kind (or at all)”***Member’s explanatory statement****This amendment would do the same as the Government amendment to subsection (1) of this Clause, but for frameworks.***26** Page 7, line 25, leave out from “apply” to “the” in line 26 and insert “to prevent the contract from being treated as a defence and security contract if”***Member’s explanatory statement****This amendment is consequential on the Government amendments to subsections (1) and (2) of this clause, and ensures that a contract falling within more than one special regime but that is capable of being a defence and security contract would still be categorised as a defence and security contract.***27** Page 7, line 36, at end insert –

“and a reference to a special regime contract of a particular kind is a reference to a special regime contract of a kind described in paragraph (a), (b), (c) or (d).”



**Member's explanatory statement**

*This amendment would define concepts inserted by the Government amendments to subsections (1) and (2) of this clause.*

- 28 Page 7, line 37, leave out from “determining” to end of line 38 and insert “whether a contract is a public contract”

**Member's explanatory statement**

*This amendment is consequential on the other Government amendments to this clause and would ensure that the proposition in subsection (3) does not apply when determining whether a contract is a public contract under clause 2 and Schedule 1.*

**Clause 10**

BARONESS NEVILLE-ROLFE

- 29 Page 8, line 4, after second “a” insert “covered”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 30 Page 8, line 6, leave out subsection (2)

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 31 Page 8, line 13, leave out “only award a public contract” and insert “not enter into a public contract unless it is awarded”

**Member's explanatory statement**

*This amendment would clarify that a contracting authority may not enter into a public contract unless it is awarded in accordance with the procedures for awarding a public contract in the Bill.*

- 32 Page 8, line 19, leave out subsections (4) and (5)

**Member's explanatory statement**

*This amendment is consequential on the definitions contained in subsections (4) and (5) being moved to new clause before clause 1.*

**After Clause 10**

BARONESS HAYMAN OF ULLOCK

LORD COAKER

LORD FOX

BARONESS BENNETT OF MANOR CASTLE

- 33 Insert the following new Clause –

**“Procurement principles**

- (1) In carrying out a procurement, a contracting authority must pursue the following principles –

**After Clause 10 - continued**

- (a) promoting the public good, by having regard to the delivery of strategic national priorities including economic, social, environmental and public safety priorities,
  - (b) value for money, by having regard to the optimal whole-life blend of economy, efficiency and effectiveness that achieves the intended outcome of the business case,
  - (c) transparency, by acting openly to underpin accountability for public money, anti-corruption and the effectiveness of procurements,
  - (d) integrity, by providing good management, preventing misconduct, and control in order to prevent fraud and corruption,
  - (e) fair treatment of suppliers, by ensuring that decision-making is impartial and without conflict of interest, and
  - (f) non-discrimination, by ensuring that decision-making is not discriminatory.
- (2) If a contracting authority considers that it is unable to act in accordance with any of these principles in a particular case, it must –
- (a) take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage, and
  - (b) publish a report within 90 days setting out the principles with which it could not act in accordance and its reasons.”

***Member’s explanatory statement***

*This amendment would require contracting authorities to pursue a series of principles when carrying out procurements.*

**Clause 11**

BARONESS NEVILLE-ROLFE

34 Page 8, line 32, after first “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

BARONESS HAYMAN OF ULLOCK

LORD COAKER

LORD FOX

THE EARL OF DEVON

35 Page 8, line 34, after “money” insert “including value that is social value within the meaning of the Public Services (Social Value) Act 2012, overall providing the optimum balance of economy, efficiency, effectiveness and equity”

***Member’s explanatory statement***

*This amendment would require social and public value to be considered in the procurement objectives.*

BARONESS HAYMAN OF ULLOCK  
LORD COAKER

- 36 Page 8, line 35, after “benefit” insert “and public value, including in relation to benefits and value contributing to socio-economic development, to be realised over time and in relation to areas of public responsibility of other contracting authorities”

***Member’s explanatory statement***

*This amendment would require social and public value to be considered in the procurement objectives.*

BARONESS MCINTOSH OF PICKERING

- 37 Page 8, line 38, at end insert –  
“(e) in relation to the procurement of food and drink, achieving a target of procuring 50% of products and ingredients locally.”

LORD HUNT OF KINGS HEATH  
BARONESS BRINTON

- 38 Page 8, line 38, at end insert –  
“(e) accessibility of procured goods, services or works to disabled people.”

BARONESS NEVILLE-ROLFE

- 39 Page 8, line 39, after first “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 40 Page 8, line 43, at end insert –  
“(4) In carrying out a covered procurement, a contracting authority must –  
(a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and  
(b) consider whether such barriers can be removed or reduced.”

***Member’s explanatory statement***

*This amendment would require a contracting authority, in carrying out a covered procurement, to have regard to the particular barriers to participation in public procurement that small and medium-sized enterprises may have, and whether they can be removed or reduced.*

LORD WALLACE OF SALTIRE  
LORD FOX

*As an amendment to Amendment 40*

- 41 In paragraph (a), after “enterprises” insert “, social enterprises and not-for-profit companies”

***Member’s explanatory statement***

*This amendment requires a contracting authority to also have regard to the particular barriers faced by social enterprises and not-for-profit companies in competing for contracts.*

BARONESS WORTHINGTON  
LORD LANSLEY  
BARONESS PARMINTER  
BARONESS YOUNG OF OLD SCONE

42 Page 8, line 43, at end insert –

“(4) In this section, “public benefit” means economic, social and environmental benefits, including but not limited to benefits through social impacts and environmental gain in mitigating and adapting to climate change and reducing biodiversity loss.”

***Member’s explanatory statement***

*The purpose of this amendment is to define “public benefit”.*

**Clause 12**

LORD LANSLEY  
BARONESS HAYMAN OF ULLOCK  
BARONESS PARMINTER  
BARONESS BENNETT OF MANOR CASTLE

43 Page 9, line 2, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment will require a Minister to publish a National Procurement Policy Statement.*

LORD LANSLEY  
BARONESS WORTHINGTON

44 Page 9, line 3, at end insert –

“(1A) The first statement to be published under this section must be published within 12 months of the coming into force of this section.”

***Member’s explanatory statement***

*This amendment would require a statement to be published within 12 months of the coming into force of the Act.*

45 Page 9, line 8, after “consultation” insert “on a draft of the statement”

***Member’s explanatory statement***

*This amendment would require the consultation to be based on a draft, not just a set of questions.*

BARONESS HAYMAN OF ULLOCK  
LORD COAKER  
LORD FOX

46★ Page 9, line 8, at end insert –

“(aa) give due regard to the following principles –

- (i) promoting the public good, by having regard to the delivery of strategic national priorities including economic, social, environmental and public safety priorities,

**Clause 12 - continued**

- (ii) value for money, by having regard to the optimal whole-life blend of economy, efficiency and effectiveness that achieves the intended outcome of the business case,
- (iii) transparency, by acting openly to underpin accountability for public money, anti-corruption and the effectiveness of procurements,
- (iv) integrity, by providing good management, preventing misconduct, and exercising control in order to prevent fraud and corruption,
- (v) fair treatment of suppliers, by ensuring that decision-making is impartial and without conflict of interest, and
- (vi) non-discrimination, by ensuring that decision-making is not discriminatory,”

***Member’s explanatory statement***

*This amendment would require a Minister to consider a set of principles before publishing the national procurement policy statement.*

LORD LANSLEY  
BARONESS WORTHINGTON  
THE EARL OF DEVON

47 Page 9, line 11, at end insert—

- “(3A) The strategic priorities to be included in the statement must include, but are not limited to—
- (a) achieving targets set under the Climate Change Act 2008 and the Environment Act 2021,
  - (b) meeting requirements set out in the Public Services (Social Value) Act 2012,
  - (c) promoting innovation amongst potential suppliers, and
  - (d) minimising the incidence of fraud, waste or abuse of public money.”

***Member’s explanatory statement***

*This amendment would require that the priorities listed in the amendment are among the strategic priorities in relation to procurement included in the National Procurement Policy Statement.*

BARONESS HAYMAN OF ULLOCK  
LORD COAKER  
BARONESS PARMINTER

48 Page 9, line 12, leave out subsections (4) to (6) and insert—

- “(4) The national procurement policy statement, or any revision to the national procurement policy statement, does not have effect unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Member's explanatory statement**

*The purpose of this amendment is to subject the national procurement policy statement, and amendments to the national procurement policy statement, to the affirmative procedure, so that the existing national procurement policy statement remains in force if a new statement is rejected.*

BARONESS NEVILLE-ROLFE

49 Page 9, line 33, leave out “any” and insert “procurement under a”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

50 Page 9, line 36, after “to” insert “procurement under”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 13**

BARONESS NEVILLE-ROLFE

51 Page 10, line 22, after “to” insert “procurement under”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

52 Page 10, line 26, after “to” insert “procurement under”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**After Clause 13**

BARONESS MCINTOSH OF PICKERING

53★ Insert the following new Clause—

**“Public procurement of British food target**

- (1) Any public contracting authority catering services must take responsible steps to ensure that at least 50 per cent of food and drink is procured locally.
- (2) For the purposes of this Part, “locally” refers to products that have been grown, raised or made within 30 miles of the point of provision, or in the same county.”

**Clause 15**

LORD LANSLEY

54 Page 11, line 16, after “suppliers” insert “, especially among small and medium-sized enterprises,”

**Member's explanatory statement**

*This amendment would emphasise that contracting authorities should use the preliminary market engagement to build capacity among SMEs in relation to a potential contract.*

## Clause 20

BARONESS NEVILLE-ROLFE

- 55 Page 14, line 32, leave out from beginning to “the” and insert “A contracting authority may not invite suppliers to submit a tender as part of a competitive tendering procedure unless it is satisfied that the tender notice or associated tender documents contain—
- (a) information sufficient to allow suppliers to prepare such a tender, and
  - (b) in particular, details of”

***Member’s explanatory statement***

*This amendment would ensure that a contracting authority provides sufficient information to suppliers before the beginning of a tendering period.*

- 56 Page 14, line 37, at end insert—
- “(7) See section (*Qualifying utilities dynamic market notices: no duty to publish a tender notice*) for an exception to the duty in subsection (1) for contracts awarded by reference to suppliers’ membership of certain utilities dynamic markets.”

***Member’s explanatory statement***

*This amendment is consequential on the Government’s new clause on qualifying utilities dynamic market notices.*

## Clause 21

BARONESS NEVILLE-ROLFE

- 57 Page 15, line 2, at end insert—
- “(2A) A condition set under subsection (1)(a) may not—
- (a) require the submission of audited annual accounts, except from suppliers who are, or were, required to have the accounts audited in accordance with Part 16 of the Companies Act 2006 or an overseas equivalent;
  - (b) require insurance relating to the performance of the contract to be in place before the award of the contract.”

***Member’s explanatory statement***

*This amendment would prevent contracting authorities from requiring audited accounts from suppliers that do not otherwise prepare audited accounts (for example, small companies), or insurance to be in place before award.*

THE EARL OF LINDSAY

- 58★ Page 15, line 13, at end insert—
- “(5A) Where a certificate by a conformity assessment body is required, the conformity assessment body must be required to hold accreditation for the conformity assessment by an accreditation body that is a signatory to the multilateral recognition agreements of the International Accreditation Forum or the International Laboratory Accreditation Cooperation, or subsequent international agreements on the recognition of accreditation.”

**Member's explanatory statement**

*This amendment would stipulate that, where a contracting authority requires conformity assessment (e.g. testing or certification) as part of a public procurement exercise, the body delivering it must be accredited so that its competence, integrity and impartiality are verified, on an ongoing basis, against international standards, by a nationally appointed accreditation body.*

**Clause 28**

BARONESS NEVILLE-ROLFE

- 59 Page 18, line 35, leave out from first “a” to “intends” on line 36 and insert “relevant contracting authority”

**Member's explanatory statement**

*This amendment and the other Government amendment to this Clause would ensure that the House authorities are not required to seek the approval of a Minister of the Crown to exclude a supplier on the basis of national security.*

- 60 Page 19, line 3, at end insert –

“(4) In this section, a “relevant contracting authority” means a contracting authority other than –

- (a) a Minister of the Crown or a government department,
- (b) the Corporate Officer of the House of Commons, or
- (c) the Corporate Officer of the House of Lords.”

**Member's explanatory statement**

*This amendment and the other Government amendment to this Clause would ensure that the House authorities are not required to seek the approval of a Minister of the Crown to exclude a supplier on the basis of national security.*

**Clause 29**

BARONESS NEVILLE-ROLFE

- 61 Page 19, line 6, leave out “a procurement” and insert “the award of a public contract”

**Member's explanatory statement**

*This amendment and the Government amendment to subsection (1)(b) of this clause would clarify that it is improper behaviour relating to the award of a particular contract that is relevant in deciding whether to exclude someone from competing for that contract, and would reflect the change in terminology in new clause before clause 1.*

- 62 Page 19, line 8, leave out “of a public contract”

**Member's explanatory statement**

*This amendment and the Government amendment to subsection (1)(a) of this clause would clarify that it is improper behaviour relating to the award of a particular contract that is relevant in deciding whether to exclude someone from competing for that contract, and would reflect the change in terminology in new clause before clause 1.*



**Clause 30**

BARONESS NEVILLE-ROLFE

63 Page 20, line 2, after second “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

64 Page 20, line 11, after first “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

65 Page 20, line 26, after second “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

66 Page 20, line 29, after second “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

67 Page 20, line 33, after second “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

68 Page 20, line 36, after first “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 34**

BARONESS NEVILLE-ROLFE

69 Page 23, line 18, leave out “public”

***Member’s explanatory statement***

*This amendment would ensure that documents establishing or modifying a dynamic market are not subject to any requirements applicable to contracts under the Bill.*

**Clause 35**

BARONESS NEVILLE-ROLFE

70 Page 23, line 26, at end insert —

“(1A) A condition set under subsection (1)(a) may not —

**Clause 35 - continued**

- (a) require the submission of audited annual accounts, except from suppliers who are, or were, required to have the accounts audited in accordance with Part 16 of the Companies Act 2006 or an overseas equivalent;
- (b) require insurance relating to the performance of a contract to be in place before the award of the contract.”

***Member’s explanatory statement***

*This amendment would prevent contracting authorities from requiring audited accounts from suppliers that do not otherwise prepare audited accounts (for example, small companies), or insurance to be in place before award.*

**After Clause 38**

BARONESS NEVILLE-ROLFE

71 Insert the following new Clause—

**“Qualifying utilities dynamic market notices: no duty to publish a tender notice**

- (1) The duty to publish a tender notice in section 20(1) does not apply in relation to the award of a contract by reference to suppliers’ membership of—
  - (a) a utilities dynamic market established by reference to a qualifying utilities dynamic market notice, or
  - (b) a part of such a market.
- (2) A contracting authority must instead provide a tender notice to members of the market, or part of the market, for the purposes set out in section 20(1).
- (3) A contracting authority may also provide a tender notice to suppliers that have applied for membership of the market, or part of the market, but have yet to be accepted or rejected.
- (4) The reference in section 20(5) to a tender notice or associated tender documents includes a reference to a qualifying utilities dynamic market notice.
- (5) Section 33(4) (duty to consider applications for membership) does not apply in relation to the award of a contract by reference to suppliers’ membership of—
  - (a) a utilities dynamic market established by reference to a qualifying utilities dynamic market notice, or
  - (b) a part of such a market.
- (6) In this section, “a qualifying utilities dynamic market notice” means a dynamic market notice under section 38(2)(dynamic market notices) that—
  - (a) relates to the establishment of a utilities dynamic market, and
  - (b) sets out—
    - (i) that only members of the market will be notified of a future intention to award a contract by reference to suppliers’ membership of the market, and
    - (ii) any other information specified in regulations under section 88.
- (7) In this Act, a reference to publication of a tender notice includes a reference to provision of a tender notice under subsection (2) or (3).”

**Member's explanatory statement**

*This new Clause would relieve a utility that establishes a dynamic market by reference to a qualifying utilities dynamic market notice from the obligation to publish a tender notice.*

**Clause 40**

LORD SCRIVEN  
BARONESS BRINTON  
BARONESS BENNETT OF MANOR CASTLE

72 Page 26, line 22, at end insert –

“(3A) Provision under subsection (1) must not confer any preferential treatment on suppliers connected to or recommended by members of the House of Commons or members of the House of Lords.”

**Member's explanatory statement**

*This amendment is intended to prevent the future use of “VIP lanes” for public contracts.*

**After Clause 42**

LORD CLEMENT-JONES  
LORD FOX

73★ Insert the following new Clause –

**“Retendering of direct award contracts**

Any contract awarded under section 39 or 41 that is included in a framework agreement must be retendered within the period of 18 months beginning with the day on which it was awarded.”

**Member's explanatory statement**

*This amendment requires direct award contracts included in a framework agreement to be retendered 18 months after the date of award.*

**Clause 43**

BARONESS NEVILLE-ROLFE

74 Page 27, line 40, at end insert –

“(5A) A condition set under subsection (4)(a) may not –

- (a) require the submission of audited annual accounts, except from suppliers who are, or were, required to have the accounts audited in accordance with Part 16 of the Companies Act 2006 or an overseas equivalent;
- (b) require insurance relating to the performance of the contract to be in place before the award of the contract.”

**Member's explanatory statement**

*This amendment would prevent contracting authorities from requiring audited accounts from suppliers that do not otherwise prepare audited accounts (for example, small companies), or insurance to be in place before award.*

75 Page 28, line 18, at end insert –

“(11A) In this section, a “competitive selection process” means a competitive selection process for the award of a public contract in accordance with a framework.

(11B) This section does not apply to a framework that is a light touch contract.”

***Member’s explanatory statement***

*This amendment would add a definition and exception as a preliminary step to dividing Clause 43.*

**After Clause 43**

BARONESS NEVILLE-ROLFE

76 Divide Clause 43 into two Clauses, the first (*Frameworks*) to consist of subsections (1) to (3) and (12) to (17) and the second (*Frameworks: competitive selection process*) consisting of subsections (4) to (11B).

***Member’s explanatory statement***

*This is a motion to divide Clause 43 into two Clauses and make it easier to follow.*

**Clause 48**

BARONESS NEVILLE-ROLFE

77 Page 31, line 40, at end insert –

“(ba) awarded under section 39 or 41 (direct award and switching to direct award) by a private utility;”

***Member’s explanatory statement***

*This amendment would mean that a private utility would not have to wait until the expiry of a mandatory standstill period before directly awarding a contract.*

**Clause 49**

BARONESS NEVILLE-ROLFE

78 Page 32, line 7, leave out “£2” and insert “£5”

***Member’s explanatory statement***

*This amendment would mean that a contracting authority is only required to set key performance indicators for a public contract if the contract’s value is more than £5 million.*

BARONESS HAYMAN OF ULLOCK  
LORD COAKER

79★ Page 32, line 7, leave out “£2” and insert “£3”

***Member’s explanatory statement***

*This amendment would probe the government amendment meaning that a contracting authority is only required to set key performance indicators for a public contract if the contract’s value is more than £5 million.*

**Clause 50**

BARONESS NEVILLE-ROLFE

80 Page 32, line 36, leave out “£2” and insert “£5”

***Member’s explanatory statement****This amendment would mean that a contracting authority is only required to publish a public contract if the contract’s value is more than £5 million.*BARONESS HAYMAN OF ULLOCK  
LORD COAKER

81★ Page 32, line 36, leave out “£2” and insert “£3”

***Member’s explanatory statement****This amendment would probe the government amendment meaning that a contracting authority is only required to publish a public contract if the contract’s value is more than £5 million.***Clause 53**

THE EARL OF LINDSAY

82★ Page 35, line 16, at end insert –

“(3A) The procurement documents may require that economic operators provide a test report or a certificate or other service from a conformity assessment body, in which case the conformity assessment body must hold accreditation for the conformity assessment by an accreditation body that is a signatory to the multilateral recognition agreements of the International Accreditation Forum or the International Laboratory Accreditation Cooperation, or subsequent international agreements on the recognition of accreditation.”

***Member’s explanatory statement****This amendment would stipulate that, where a contracting authority requires conformity assessment (e.g. testing or certification) as part of a public procurement exercise, the body delivering it must be accredited so that its competence, integrity and impartiality are verified, on an ongoing basis, against international standards, by a nationally appointed accreditation body.***After Clause 53**LORD HUNT OF KINGS HEATH  
BARONESS BRINTON

83 Insert the following new Clause –

**“Technical specification and disabled persons**

- (1) For all procurement which is intended for use by natural persons, whether the general public or staff of the contracting authority, the procurement documents must, except in duly justified cases, be drawn up so as to take into account the accessibility of procured goods, services or works to disabled persons.

**After Clause 53 - continued**

- (2) The Equality and Human Rights Commission must give guidance to contracting authorities in relation to the duty imposed by subsection (1).
- (3) Before giving guidance under subsection (2) the Commission must consult such persons, including bodies representing disabled persons, as they consider appropriate.
- (4) In drawing up the procurement documents, a contracting authority must have regard to the guidance given under subsection (2)."

**Clause 54**

BARONESS NEVILLE-ROLFE

84 Page 36, line 19, after first "a" insert "covered"

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.***Schedule 6**

BARONESS NEVILLE-ROLFE

85 Page 95, line 38, after "steal," insert "uttering, embezzlement,"

***Member's explanatory statement****This amendment would ensure that additional relevant Scots common law offences are contained in the mandatory exclusion ground in paragraph 4.*

86 Page 96, line 2, leave out "7" and insert "1"

***Member's explanatory statement****This amendment would clarify that the offence of theft is covered under the mandatory exclusion ground in paragraph 6.*

87 Page 96, line 9, leave out "7" and insert "1"

***Member's explanatory statement****This amendment would clarify that the offence of theft is covered under the mandatory exclusion ground in paragraph 7.*

88 Page 101, line 21, after "4," insert "5,"

***Member's explanatory statement****This amendment would ensure that the new mandatory exclusion ground inserted in Committee (conspiracy to defraud) is reflected in paragraph 43(3).*

## Schedule 7

LORD FOX

89 Page 103, line 36, at end insert –

*“Financial and economic misconduct*

3A A discretionary exclusion ground applies to a supplier if the decision-maker considers that there is sufficient evidence that the supplier or a connected person has engaged in conduct (whether in or outside the United Kingdom) constituting (or that would, if it occurred in the United Kingdom, constitute) any of the following offences –

- (a) an offence under section 327, 328 or 329 of the Proceeds of Crime Act 2002 (money laundering offences);
- (b) an offence under section 86, 88 or 92 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- (c) an offence under Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (sanctions evasion offences);
- (d) an offence under section 2, 3, 4, 6 or 7 of the Fraud Act 2006 (fraud offences);
- (e) an offence under section 993 of the Companies Act 2006 (fraudulent trading);
- (f) an offence under section 1, 2, 6 or 7 of the Bribery Act 2010 (bribery offences).”

***Member’s explanatory statement***

*This amendment is intended to allow relevant Ministers and Contracting Authorities the power to exclude suppliers from procurement where they have evidence of financial and economic criminal activity, such as fraud, money laundering, bribery or sanctions evasion, but there has not yet been a conviction by a court.*

BARONESS NEVILLE-ROLFE

90 Page 104, line 14, leave out paragraph 6

***Member’s explanatory statement***

*This amendment would remove the discretionary exclusion ground relating to a supplier being unable to pay their debts.*

LORD HUNT OF KINGS HEATH  
BARONESS NORTHOVER  
BARONESS HAYMAN OF ULLOCK

91 Page 106, line 41, at end insert –

*“Involvement in forced organ harvesting*

15A (1) A discretionary exclusion ground applies to a supplier if a decision-maker determines that the supplier or a connected person has been, or is, involved in –

- (a) forced organ harvesting,

**Schedule 7 - continued**

- (b) unethical activities relating to human tissue, including anything which involves the commission of an offence under sections 32 (prohibition of commercial dealings in human material for transplantation), 32A (offences under section 32 committed outside UK) or 33 (restriction on transplants involving a live donor) of the Human Tissue Act 2004, or under sections 20 (prohibition of commercial dealings in parts of a human body for transplantation) or 20A (offences under section 20 committed outside UK) of the Human Tissue (Scotland) Act 2006, or
  - (c) dealing in any device or equipment or services relating to conduct mentioned in paragraphs (a) or (b).
- (2) “Forced organ harvesting” means killing a person without their consent so that their organs may be removed and transplanted into another person.”

***Member’s explanatory statement***

*This amendment is designed to give a discretionary power to exclude suppliers from being awarded a public contract who have participated in forced organ harvesting or unethical activities relating to human tissue, including where they are involved in providing a service or goods relating to such activities.*

BARONESS NEVILLE-ROLFE

- 92 Page 107, line 20, at end insert –  
 “(da) paragraph 13(4) (adverse information about supplier published by contracting authority), where the information is published in relation to a breach of contract;”

***Member’s explanatory statement***

*This amendment would ensure that the discretionary exclusion ground in paragraph 13(4) (publishing of adverse information) is reflected in paragraph 16(3), so far as that ground is triggered by the publishing of information in relation to a breach of contract by a supplier.*

- 93 Page 107, line 28, at end insert –  
 “(ca) paragraph 13(4) (adverse information about supplier published by contracting authority), where the information is not published in relation to a breach of contract;”

***Member’s explanatory statement***

*This amendment would ensure that the discretionary exclusion ground in paragraph 13(4) (publishing of adverse information) is reflected in paragraph 16(4), so far as that ground is not triggered by the publishing of information in relation to a breach of contract by a supplier.*



**After Clause 61**

LORD ALTON OF LIVERPOOL  
 LORD BLENCATHRA  
 LORD FOX  
 LORD COAKER

94 Insert the following new Clause—

**“Timeline for removal of suppliers**

- (1) Within 6 months of the passing of this Act, the Secretary of State must publish a timeline for the removal of physical technology or surveillance equipment from the Government’s procurement supply chain where the Secretary of State is satisfied there is established evidence that a provider has been involved in—
  - (a) modern slavery,
  - (b) genocide, or
  - (c) crimes against humanity.
- (2) The Secretary of State must lay the timeline before Parliament.”

LORD ALTON OF LIVERPOOL

95 Insert the following new Clause—

**“Labelling products from countries accused of modern slavery or genocide**

The Secretary of State must by regulations make provision to secure that, where any product purchased with public funds comes from a country which—

- (a) the Secretary of State considers is responsible for modern slavery or genocide, or
- (b) has been named in a resolution passed by the House of Commons as being responsible for modern slavery or genocide,

the product is labelled to identify it as coming from a country where paragraph (a) or (b) apply (as applicable).”

BARONESS HAYMAN OF ULLOCK  
 LORD COAKER  
 LORD WALLACE OF SALTIRE

96 Insert the following new Clause—

**“Public interest**

- (1) Where a contracting authority is considering outsourcing public services that are at the time of consideration delivered in-house or where contracts are due for renewal, the contracting authority must ensure that outsourcing or re-contracting passes a public interest test and provides greater public value than direct service provision.
- (2) As part of the duty in subsection (1), the contracting authority must demonstrate to the public, service users and its employees that it has thoroughly assessed the potential benefits and impact of outsourcing the service in question against a public sector comparator with assessments being based on criteria to be set by the Secretary of State from time to time, including taking a five year consideration of—

**After Clause 61 - continued**

- (a) service quality and accessibility;
  - (b) value for money of the expenditure;
  - (c) implications for other public services and public sector budgets;
  - (d) resilience of the service being provided;
  - (e) implications for the local economy and availability of good work in relevant sub-national labour markets;
  - (f) implications for public accountability and transparency;
  - (g) effect on employment conditions, terms and standards within the provision of the service to be outsourced and when outsourced;
  - (h) implications for public sector contributions to climate change targets;
  - (i) implications on equalities policies of the contracting authority and its compliance with the public sector equality duty.
- (3) The contracting authority and the supplier of the outsourced service must monitor the performance of any contracted service against the public interest test and the stated objectives set by the contracting authority pre-procurement to demonstrate that outsourcing the service in question has not resulted in a negative impact on any of the matters mentioned in subsection (2)(a) to (i).
- (4) The Secretary of State must from time to time set budget thresholds for when a public interest test would be required.”

***Member’s explanatory statement***

*The amendment would create a process to ensure that contracting authorities safeguard the public interest when considering whether or not to outsource or recontract services.*

LORD WALLACE OF SALTAIRE

97 Insert the following new Clause—

**“Procurement Review Unit**

- (1) There is to be a Procurement Review Unit (“the PRU”) within the Cabinet Office.
- (2) The purpose of the PRU is to—
  - (a) oversee public procurement;
  - (b) address systematic or institutional breaches of the procurement regulations;
  - (c) advise on exclusion and debarment of suppliers.
- (3) The PRU must be advised by an expert panel appointed by the Cabinet Office, in consultation with outside suppliers and the relevant Parliamentary Committee.”

***Member’s explanatory statement***

*This amendment is to probe the role and autonomy of the Procurement Review Unit in reviewing the procurement process.*

**Clause 63**

BARONESS NEVILLE-ROLFE

98 Page 42, line 27, leave out from “by” to end of line 28 and insert “a school”

***Member’s explanatory statement***

*This amendment is consequential on the new definition of “school” inserted by the Government amendment to clause 114.*

99 Page 43, line 16, leave out subsection (11)

***Member’s explanatory statement***

*This amendment is consequential on the new definition of “school” inserted by the Government amendment to clause 114.*

**Clause 64**

BARONESS NEVILLE-ROLFE

100 Page 44, line 8, at end insert “or in relation to a public contract awarded by a school”

***Member’s explanatory statement***

*This amendment is consequential on the new definition of “school” inserted by the Government amendment to clause 114.*

**Clause 65**

BARONESS NEVILLE-ROLFE

101 Page 44, line 21, leave out from “by” to end of line 22 and insert “a school,  
(d) awarded by a transferred Northern Ireland authority, unless it is awarded as part of a procurement under a reserved procurement arrangement or devolved Welsh procurement arrangement, or  
(e) awarded as part of a procurement under a transferred Northern Ireland procurement arrangement.”

***Member’s explanatory statement***

*This amendment would exclude transferred Northern Ireland authorities and procurements by a school (as defined in the Government amendments to clause 114) from the duty to publish information under this clause.*

**Clause 68**

BARONESS NEVILLE-ROLFE

102 Page 46, line 22, leave out from “by” to end of line 23 and insert “a school”

***Member’s explanatory statement***

*This amendment is consequential on the new definition of “school” inserted by the Government amendment to clause 114.*

**Clause 70**

BARONESS NEVILLE-ROLFE

103 Page 48, line 12, after “awarded” insert “as part of a procurement”

***Member’s explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.***Clause 72**

BARONESS NEVILLE-ROLFE

104 Page 48, line 29, leave out “£2” and insert “£5”

***Member’s explanatory statement****This amendment would mean that a contracting authority is only required to publish a modification of a public contract if the contract’s value is (or becomes as a result of the modification) more than £5 million.*BARONESS HAYMAN OF ULLOCK  
LORD COAKER

105★ Page 48, line 29, leave out “£2” and insert “£3”

***Member’s explanatory statement****This amendment would probe the government amendment meaning that a contracting authority is only required to publish a modification of a public contract if the contract’s value is (or becomes as a result of the modification) more than £5 million.*

BARONESS NEVILLE-ROLFE

106 Page 48, line 35, after “awarded” insert “as part of a procurement”

***Member’s explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

107 Page 48, line 37, after “awarded” insert “as part of a procurement”

***Member’s explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.***Clause 74**

BARONESS NEVILLE-ROLFE

108 Page 50, line 25, before “contracting” insert “relevant”

***Member’s explanatory statement****This amendment and the other Government amendment to this clause would ensure that the House authorities are not required to seek the approval of a Minister of the Crown to terminate a contract with a supplier on the basis of national security.*

109 Page 50, line 32, at end insert –

“(2) In this section, a “relevant contracting authority” means a contracting authority other than –

- (a) a Minister of the Crown or a government department,
- (b) the Corporate Officer of the House of Commons, or
- (c) the Corporate Officer of the House of Lords.”

***Member’s explanatory statement***

*This amendment and the other Government amendment to this clause would ensure that the House authorities are not required to seek the approval of a Minister of the Crown to terminate a contract with a supplier on the basis of national security.*

**Clause 76**

BARONESS NEVILLE-ROLFE

110 Page 51, line 10, after “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

111 Page 51, line 13, after second “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

112 Page 51, line 19, after “a” insert “covered”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

LORD FOX  
LORD SCRIVEN

113 Page 51, line 30, at end insert –

““person who influences” includes, but is not limited to –

- (a) civil servants;
- (b) any other public sector employees or officials;
- (c) NHS staff;
- (d) government contractors and their employees;
- (e) consultants;
- (f) special advisers;
- (g) political appointees;

“reasonable steps” include, but are not limited to –

- (a) requiring that suppliers submit a conflict of interest declaration, or
- (b) requiring that suppliers submit written confirmation of compliance with the Supplier Code of Conduct issued by the Government Commercial Function applicable at the time, or any future guidance that replaces it.”

**Member's explanatory statement**

*This amendment broadens the range of people to whom conflicts of interest in procurement should be identified. It also requires suppliers to submit conflict of interest declarations. Both parts of the amendment are in line with the recommendations of Sir Nigel Boardman's review of Covid-19 procurement.*

**Clause 77**

BARONESS NEVILLE-ROLFE

- 114 Page 51, line 34, after "a" insert "covered"

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 78**

BARONESS NEVILLE-ROLFE

- 115 Page 52, line 12, after second "a" insert "covered"

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 116 Page 52, line 23, leave out "might" and insert "it considers are likely to"

**Member's explanatory statement**

*This amendment would mean that the obligation to publish information about mitigating perceived conflicts of interest applies only in respect of those the contracting authority considers are likely to arise.*

**Clause 79**

BARONESS NEVILLE-ROLFE

- 117 Page 53, line 26, leave out paragraph (a)

**Member's explanatory statement**

*This amendment is consequential on the new definition of "school" inserted by the Government amendment to clause 114.*

- 118 Page 53, line 28, leave out "the award of a contract" and insert "procurement"

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 119 Page 53, line 28, at end insert –  
                                   “(ai) by a school,”

**Member's explanatory statement**

*This amendment is consequential on the new definition of "school" inserted by the Government amendment to clause 114.*

120 Page 53, line 29, leave out “unless it is awarded” and insert “other than procurement”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

121 Page 53, line 34, leave out paragraph (c)

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**After Clause 80**

BARONESS NEVILLE-ROLFE

122 Insert the following new Clause—

**“Regulated below-threshold contracts: duty to consider small and medium-sized enterprises**

- (1) Before inviting the submission of tenders in relation to the award of a regulated below-threshold contract, a contracting authority must—
  - (a) have regard to the fact that small and medium-sized enterprises may face particular barriers in competing for a contract, and
  - (b) consider whether such barriers can be removed or reduced.
- (2) Subsection (1) does not apply in relation to the award of a contract in accordance with a framework.”

***Member’s explanatory statement***

*This new Clause would require a contracting authority, before inviting the submission of tenders for a regulated below-threshold contract (other than under a framework), to have regard to the particular barriers to competing for a contract that small and medium-sized enterprises may have, and remove or reduce them where possible.*

LORD WALLACE OF SALTAIRE

LORD FOX

*As an amendment to Amendment 122*

123 In subsection (1)(a), after “enterprises” insert “, social enterprises and not-for-profit companies”

***Member’s explanatory statement***

*This amendment requires a contracting authority to also have regard to the particular barriers faced by social enterprises and not-for-profit companies in competing for contracts.*

**Clause 83**

BARONESS NEVILLE-ROLFE

124 Page 56, line 8, leave out “, below-threshold procurement or international organisation procurement”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1 - there, “procurement” includes below-threshold procurement and international organisation procurement.*

125 Page 56, line 22, leave out paragraphs (a) and (b)

***Member's explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1 - there, "procurement" includes below-threshold procurement and international organisation procurement.*

**Clause 84**

BARONESS NEVILLE-ROLFE

126 Page 57, line 2, leave out from "procurement" to end of line 3

***Member's explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

LORD PURVIS OF TWEED

LORD FOX

127 Page 57, line 13, at end insert—

“(3A) A contracting authority does not discriminate if it takes into account environmental, social and labour considerations and indicates in the notice of intended procurement or tender documentation how such considerations are defined.”

***Member's explanatory statement***

*This amendment allows a contracting authority to take into account environmental, social and labour conditions where a treaty state supplier may be a supplier for a procurement.*

**Clause 85**

BARONESS NEVILLE-ROLFE

128 Page 57, line 31, leave out from "means" to "by" in line 33 and insert "procurement carried out"

***Member's explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 88**

BARONESS NEVILLE-ROLFE

129 Page 59, line 15, at end insert—

“(4) A Minister of the Crown must make arrangements to establish and operate an online system for the purpose of publishing notices, documents and other information under this Act.

(5) An online system established or operated under subsection (4) must—

- (a) make notices, documents and other information published under this Act available free of charge, and
- (b) be accessible to people with disabilities.”



**Member's explanatory statement**

*This amendment would require a Minister of the Crown to set up an online system for the publication of notices, documents and other information under the Bill.*

LORD CLEMENT-JONES

LORD FOX

*As an amendment to Amendment 129*

130★ At end insert—

“(6) The relevant Minister of the Crown must publish an annual report on the operation of the online system setting out the performance standards expected and achieved in the relevant period including metrics on satisfaction and accessibility experience from stakeholders.”

**Member's explanatory statement**

*This amendment requires an annual report to be published on the operation of the online system.*

**Clause 89**

BARONESS NEVILLE-ROLFE

131 Page 59, line 17, after first “a” insert “covered”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 90**

BARONESS NEVILLE-ROLFE

132 Page 59, line 36, leave out subsection (2)

**Member's explanatory statement**

*This amendment would remove an unnecessary power to establish and operate an online system, since it can be done using common law powers.*

133 Page 60, line 3, leave out “procurement under this Act” and insert “covered procurement”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 92**

BARONESS NEVILLE-ROLFE

134 Page 60, line 26, after “with” insert “section 11(4) (requirement to have regard to barriers facing SMEs), or”

**Member's explanatory statement**

*This amendment would mean that the duty to have regard to barriers facing small and medium-sized enterprises inserted by the Government amendment to Clause 11 is not enforceable under Part 9.*

135 Page 60, line 30, leave out from “a” to “procurement” in line 31

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1 - there, “procurement” includes below-threshold procurement and international organisation procurement.*

136 Page 60, line 32, at end insert “, except in relation to a covered procurement”

***Member’s explanatory statement***

*This amendment is consequential on the other Government amendment to this subsection and would ensure that the duty is enforceable in relation to covered procurements.*

137 Page 61, line 2, leave out subsection (9)

***Member’s explanatory statement***

*This amendment is consequential on the Government amendments to this clause.*

**After Clause 98**

LORD COAKER  
BARONESS HAYMAN OF ULLOCK  
BARONESS SMITH OF NEWNHAM

138 Insert the following new Clause –

**“Audit of Ministry of Defence procurement**

- (1) Within one month of the passing of this Act, the Secretary of State must commission the National Audit Office to produce and publish a report setting out any instances of Ministry of Defence procurement in the period of 5 years ending with the day on which this Act is passed that have resulted in –
  - (a) overspend on initially planned budgets,
  - (b) assets being withdrawn or scrapped or prepaid services terminated,
  - (c) a contract being cancelled,
  - (d) a contract being extended beyond the initially agreed timescale, or
  - (e) administrative errors which have had a negative financial impact.
- (2) The National Audit Office report must include recommendations on how better management of contracts can reduce the loss of public money.
- (3) Within three months of the publication of the report, the Secretary of State must report to Parliament on whether its recommendations have been accepted or rejected, with reasoning in either case.
- (4) The Secretary of State must commission the National Audit Office to conduct a similar review annually.”

***Member’s explanatory statement***

*This amendment would require an annual audit of Ministry of Defence procurement to be commissioned by the Secretary of State.*

**Clause 99**

BARONESS NEVILLE-ROLFE

139 Page 64, line 42, at end insert –

- “(ca) the Corporate Officer of the House of Commons;
- (cb) the Corporate Officer of the House of Lords;
- (cc) the Senedd Commission;
- (cd) the Northern Ireland Assembly Commission;”

***Member’s explanatory statement***

*This amendment would add the listed bodies as contracting authorities not subject to procurement investigations.*

**Clause 100**

BARONESS NEVILLE-ROLFE

140 Page 65, line 23, at end insert –

- “(ba) comply with section (*Regulated below-threshold contracts: duty to consider small and medium-sized enterprises*) (regulated below-threshold contracts: duty to consider SMEs);”

***Member’s explanatory statement***

*This amendment would mean that the duty to have regard to barriers facing small and medium-sized enterprises inserted by the Government amendment to Clause 80 may not be the subject of a “section 100 recommendation”.*

**After Clause 101**

BARONESS STROUD  
LORD ALTON OF LIVERPOOL  
LORD COAKER  
BARONESS SMITH OF NEWNHAM

141 Insert the following new Clause –

**“Supply chain resilience against economic coercion and slavery**

- (1) The Secretary of State must by regulations make provision for reducing the dependency of public bodies upon goods and services which originate in whole or in part in a country considered by the United Kingdom as either a systemic competitor or a threat.
- (2) A country is “considered by the United Kingdom as either a systemic competitor or a threat” if it was defined as such in the latest Integrated Review of Security, Defence, Development and Foreign Policy.
- (3) The regulations under subsection (1) may, in particular, include –
  - (a) provision for an annual review of the dependency of public bodies upon countries which are considered by the United Kingdom as systemic competitors or threats;
  - (b) provision for the setting of acceptable dependency thresholds across all categories of public procurement.

**After Clause 101 - continued**

- (4) The Secretary of State must by regulations make provision for eradicating from all public contracts goods or services that are tainted by slavery and human trafficking.
- (5) The regulations under subsection (4) may, in particular, include—
- (a) provision in connection with the processes to be followed by public bodies in the procurement of goods or services for the purposes of public contracts;
  - (b) provision as to steps that must be taken by public bodies for assessing and addressing the risk of slavery and human trafficking taking place in relation to people involved in public bodies' supply chains;
  - (c) provision as to matters for which provision must be made in contracts for goods or services entered into by public bodies;
  - (d) provision as to the standards of disclosure and transparency required for all contractors or prospective contractors, which must, at a minimum, include publication and verification of information about the country of origin of all sourcing inputs in their supply chain;
  - (e) provision for the public disclosure of the names of contractors or prospective contractors whose supply chains are considered tainted by slavery and human trafficking;
  - (f) provision for the publication and dissemination of a risk register detailing areas from which goods cannot be sourced without unreasonable risk of slavery and human trafficking being present in supply chains.
- (6) In this section—
- “public body” means a body exercising functions of a public nature;
- “slavery and human trafficking” has the meaning given by section 54(12) of the Modern Slavery Act 2015;
- goods or services are “tainted” by slavery and human trafficking if slavery and human trafficking take place in relation to anyone involved in the supply chain for providing those goods or services.”

***Member's explanatory statement***

*The amendment seeks to improve the UK's supply chain resilience against dependency and human rights abuse by creating a double regulation making power: to enable the Government to develop a plan to address dependency throughout public procurement; and to bring the human rights standards of wider public procurement in line with the procurement standards of the Department of Health and Social Care.*

**Clause 102**

BARONESS NEVILLE-ROLFE

**142** Page 66, line 23, leave out “the award of contracts” and insert “procurement”

***Member's explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**143** Page 66, line 24, leave out from “arrangement” to end of line

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 144 Page 66, line 37, leave out “awarding a contract” and insert “carrying out a procurement”

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 145 Page 66, line 39, leave out sub-paragraph (ii)

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 146 Page 67, line 1, leave out subsection (5)

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.***Clause 103**

BARONESS NEVILLE-ROLFE

- 147 Page 67, line 19, leave out “the award of contracts” and insert “procurement”

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 148 Page 67, line 20, leave out from “arrangement” to end of line

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 149 Page 67, line 36, leave out subsection (5)

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.***Clause 104**

BARONESS NEVILLE-ROLFE

- 150 Page 67, line 42, leave out from “to” to end of line 45 and insert “procurement under—  
 (a) a reserved procurement arrangement, or  
 (b) a transferred Northern Ireland procurement arrangement.”

***Member's explanatory statement****This amendment is consequential on the change in terminology in new clause before clause 1.*

- 151 Page 68, line 6, leave out from “to” to end of line 9 and insert “, or the guidance relates to, procurement under –
- (a) a reserved procurement arrangement, or
  - (b) a transferred Northern Ireland procurement arrangement.”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 152 Page 68, line 12, leave out from “to” to end of line 15 and insert “procurement under –
- (a) a reserved procurement arrangement, or
  - (b) a devolved Welsh procurement arrangement.”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 153 Page 68, line 15, at end insert –
- “(4A) A Minister of the Crown may not publish guidance under section 101 for the purpose of regulating a Northern Ireland department without the consent of a Northern Ireland department, unless the guidance relates to procurement under –
- (a) a reserved procurement arrangement, or
  - (b) a devolved Welsh procurement arrangement.”

***Member’s explanatory statement***

*This amendment would ensure that a Minister of the Crown could not issue guidance for the purposes of regulating a Northern Ireland department without the consent of a Northern Ireland department unless it relates to procurement under a reserved procurement arrangement or a devolved Welsh procurement arrangement.*

- 154 Page 68, line 21, leave out subsection (6)

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 105**

BARONESS NEVILLE-ROLFE

- 155 Page 68, line 25, leave out from second “a” to “awarded” on line 26 and insert “procurement under a procurement arrangement is a reference to a procurement as part of which the contract is”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 156 Page 68, line 29, leave out paragraph (c)

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 106**

BARONESS NEVILLE-ROLFE

- 157 Page 69, line 30, at end insert “devolved Scottish authorities carrying out procurement under”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 158 Page 69, leave out line 31

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 159 Page 69, line 35, leave out paragraph (b)

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 160 Page 69, line 37, leave out from “to” to end of line 40 and insert “procurement under devolved Scottish procurement arrangements”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 161 Page 69, line 43, leave out “the award of contracts” and insert “procurement”

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 162 Page 69, line 45, leave out paragraph (b)

***Member’s explanatory statement***

*This amendment is consequential on the change in terminology in new clause before clause 1.*

**Clause 107**

BARONESS BENNETT OF MANOR CASTLE

- 163★ Page 70, line 14, leave out subsection (2) and insert –

“(2) A Minister of the Crown and the Welsh Ministers must, within six months of the passing of this Act, make regulations in accordance with section 113(4) or (10) (as applicable) disapplying the duty under section 17(1) of the Local Government Act 1988 (“the 1998 Act”) as it applies to any proposed or subsisting below-threshold contracts procured by any public authorities.”

**Member's explanatory statement**

*This amendment would commit English and Welsh Ministers to lay regulations to bring local authorities in line with the rest of the public sector in being able to reserve below-threshold contracts for UK suppliers, local suppliers, SMEs or voluntary, community and social enterprises, as laid out in a Procurement Policy Note issued by the Cabinet Office in December 2020.*

BARONESS NOAKES  
LORD MOYLAN

- 164 Page 70, line 22, at end insert –  
“(ca) below-threshold contracts;”

**Member's explanatory statement**

*This amendment ensures that the regulations can specifically exclude below-threshold contracts from the duty in section 17 of the Local Government Act 1988.*

**Schedule 10**

BARONESS NEVILLE-ROLFE

- 165 Page 113, line 39, at end insert –  
“6A (1) Section 42 (single source contract regulations: general) is amended as follows.  
(2) In subsection (4)(b), omit the second “or”.  
(3) After subsection (4)(b) insert –  
“(ba) provision made by virtue of section 15(2)(b) (pricing of contracts), whether alone or with other provision, or”.”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of powers under the new provision in section 15 of the Defence Reform Act 2014 inserted by paragraph 3(3) of this Schedule.*

**Schedule 11**

BARONESS NOAKES  
LORD MOYLAN

- 166 Page 117, line 27, at end insert –  
“A1 Subsections (4)(b) and (5) of section 89 of the Transport Act 1985 (obligation to invite tenders for subsidised services).”

**Member's explanatory statement**

*This amendment removes the requirement to issue notices of tenders individually to anyone who has given written notice so that publication requirements are confined to the single digital platform proposed for public procurement.*

LORD LANSLEY

- 167 Page 117, line 34, leave out paragraph 3 and insert –  
“3 The provisions of the Act resulting from the Trade (Australia and New Zealand) Bill insofar as they were included in the Bill at its introduction to the House of Commons on 11 May 2022.”



**Member's explanatory statement**

*This amendment would limit this repeal to those provisions in the Trade (Australia and New Zealand) Bill which are replaced by the powers in Part 7; any amendments to the Trade (Australia and New Zealand) Act which are not rendered unnecessary by this Bill would remain in Statute.*

BARONESS NOAKES  
LORD MOYLAN

168 Page 118, line 3, at end insert –

“4A Regulations 4 and 5 of the Service Subsidy Agreements (Tendering) (England) Regulations 2002 (S.I. 2002/2090).”

**Member's explanatory statement**

*This amendment removes the requirement to publish tender information relating to transport service subsidies so that publication requirements are confined to the single digital platform proposed for public procurement.*

BARONESS NEVILLE-ROLFE

169 Page 118, line 8, leave out paragraphs 8 to 11

**Member's explanatory statement**

*This amendment would preserve the Commission Decisions.*

**Clause 111**

BARONESS NEVILLE-ROLFE

170 Page 71, leave out lines 11 to 20 and insert –

“(1) A Minister of the Crown may by regulations make provision for the purpose of disapplying any provision of this Act in relation to regulated health procurement.

(2) In subsection (1) –

“regulated health procurement” means the procurement of goods or services by a relevant authority that is subject to provision made under section 12ZB of the National Health Service Act 2006 (procurement of healthcare services etc for the health service in England), whether or not that provision is in force;”

**Member's explanatory statement**

*This amendment would clarify that the power to exclude certain procurement relating to health services may only be excluded from the scope of the Bill if it is the subject of provision under the National Health Service Act 2006.*

LORD HUNT OF KINGS HEATH

171 Page 71, line 14, at end insert –

“(aa) the award or management of a contract for the supply of services or goods in relation to health and care services which support the integration of those services;”

**Member's explanatory statement**

*The amendment is designed to probe the extent to which services commissioned under the auspices of integrated care systems will be covered by this Clause including social care services and shared IT services to facilitate integration.*

172 Page 71, line 16, at end insert “and (aa)”

**Member's explanatory statement**

*The amendment is designed to probe the extent to which services commissioned under the auspices of integrated care systems will be covered by this Clause including social care services and shared IT services to facilitate integration.*

BARONESS BRINTON  
LORD SCRIVEN  
BARONESS BENNETT OF MANOR CASTLE

173 Leave out Clause 111 and insert—

**“Application of this Act to procurement by NHS England**

- (1) Omit sections 79 and 80 of the Health and Care Act 2022.
- (2) For the avoidance of doubt, the provisions of this Act apply to procurement by NHS England.”

**Member's explanatory statement**

*This amendment is to probe the difference between procurement under this Act and procurement by NHS England under the Health and Care Act 2022.*

**Clause 113**

BARONESS NEVILLE-ROLFE

174 Page 72, line 17, at end insert—  
“(za) section 5 (utilities contracts)”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 5.*

175 Page 72, line 20, at end insert—  
“(ca) section 50 (publication of contracts);”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 50.*

176 Page 72, line 22, at end insert—  
“(ea) section 65(3)(a) (information about payments: financial thresholds);”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 65.*

177 Page 72, line 23, at end insert –

“(fa) section 81 (regulated below-threshold contracts: notices);”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 81.*

178 Page 72, line 25, at end insert –

“(ha) section 86 (pipeline notices);”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 86.*

179 Page 72, line 31, at end insert –

“(na) section 114 (interpretation);”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 114.*

180 Page 73, line 12, at end insert –

“(za) section 5 (utilities contracts)”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 5.*

181 Page 73, line 15, at end insert –

“(ca) section 65(3)(a) (information about payments: financial thresholds);  
(cb) section 70 (contract change notices and publication of modifications);  
(cc) section 81 (regulated below-threshold contracts: notices);”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 65, 70 or 81.*

182 Page 73, line 16, at end insert –

“(da) section 86 (pipeline notices);”

***Member’s explanatory statement***

*This amendment would apply the affirmative procedure to an exercise of powers under Clause 86.*

183 Page 73, line 20, at end insert –

“(ha) section 114 (interpretation);”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 114.*

- 184 Page 73, line 32, at end insert –  
“(za) section 5 (utilities contracts);”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 5.*

- 185 Page 73, line 35, leave out paragraph (c)

**Member's explanatory statement**

*This amendment is consequential on a Northern Ireland department not having the power to make regulations under clause 64 and would remove the power of a Northern Ireland department to amend the thresholds in that clause.*

- 186 Page 73, line 39, at end insert –  
“(ga) section 114 (interpretation);”

**Member's explanatory statement**

*This amendment would apply the affirmative procedure to an exercise of the powers inserted by the Government amendment to Clause 114.*

**Clause 114**

BARONESS NEVILLE-ROLFE

- 187 Page 74, line 24, at end insert –
- ““pupil referral unit” means –
- (a) in England, a pupil referral unit within the meaning given by section 19 of the Education Act 1996;
  - (b) in Wales, a pupil referral unit within the meaning given by section 19A of the Education Act 1996;
- “school” means –
- (a) the governing body of a maintained school (see section 19(1) of the Education Act 2002);
  - (b) the proprietor, within the meaning given by section 579(1) of the Education Act 1996, of an Academy within the meaning given by that section;
  - (c) the proprietor, within the meaning given by section 579(1) of the Education Act 1996, of a school that has been approved under section 342 of that Act;
  - (d) the governing body, within the meaning given by section 90 of the Further and Higher Education Act 1992, of an institution within the further education sector within the meaning given by section 91 of that Act;
  - (e) the Board of Governors of a grant-aided school within the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3));”

**Member's explanatory statement**

*This amendment would create a new definition of "school" for the purposes of excluding them from certain obligations under the Bill.*

188 Page 74, line 24, at end insert –

““small and medium-sized enterprises” means suppliers that –

- (a) have fewer than 250 staff, and
- (b) have a turnover of an amount less than or equal to £44 million, or a balance sheet total of an amount less than or equal to £38 million;”

**Member's explanatory statement**

*This amendment would insert a definition of "small and medium-sized enterprises" for the purposes of the Government amendment to Clause 11 and the Government's new clause after Clause 80 inserting duties in relation to those enterprises.*

LORD LANSLEY

*As an amendment to Amendment 188*

189★ Leave out paragraph (b)

**Member's explanatory statement**

*This amendment would focus the SME criterion on the size of an enterprise in terms of its headcount.*

BARONESS NOAKES

BARONESS NEVILLE-ROLFE

190 Page 74, line 30, leave out “paid, or to be paid” and insert “payable or paid, receivable or received, or to be paid or received”

**Member's explanatory statement**

*This amendment would ensure that references to amounts received, receivable or to be received in the Bill include references to those amounts referable to VAT.*

BARONESS NEVILLE-ROLFE

191 Page 74, line 31, at end insert –

- “(3) In this Act, a reference to a contract awarded by a school includes a reference to a contract awarded wholly for the purposes of supplying goods, services or works to a pupil referral unit.”

**Member's explanatory statement**

*This amendment would ensure that the new definition of "school" for the purposes of the Bill inserted into this Clause would apply such that references to contracts awarded by a school are read as references to contracts awarded for the purposes of pupil referral units.*

192 Page 74, line 31, at end insert –

- “(3) An appropriate authority may by regulations change the definition of “small and medium-sized enterprises”.
- (4) Regulations under subsection (3) may amend this section.”

**Member's explanatory statement**

*This amendment would allow the Secretary of State to more precisely define "small and medium-sized enterprises".*

**Clause 115**

BARONESS NEVILLE-ROLFE

193 Page 74, leave out line 37

**Member's explanatory statement**

*This amendment is consequential on the new definition of "school" inserted by the Government amendment to Clause 114.*

194 Page 75, line 5, leave out "section 10" and insert "section (Procurement and covered procurement)"

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

195 Page 75, line 5, at end insert —

"competitive flexible procedure competitive tendering procedure	section 19 section 19"
--	---------------------------

**Member's explanatory statement**

*This amendment would add definitions to the index of defined expressions.*

196 Page 75, line 12, at end insert —

"convertible contract covered procurement  debarment list	section 69 section (Procurement and covered procurement) section 54"
--	---

**Member's explanatory statement**

*This amendment would add definitions to the index of defined expressions.*

197 Page 75, leave out line 30

**Member's explanatory statement**

*This amendment is consequential on the new definition of "school" inserted for the purposes of the Bill by the Government amendment to clause 114.*

198 Page 76, line 6, leave out "a"

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 199 Page 76, line 6, leave out “section 10” and insert “section (*Procurement and covered procurement*)”

**Member's explanatory statement**

*This amendment is consequential on the change in terminology in new clause before clause 1.*

- 200 Page 76, line 8, at end insert –

“publication of a tender notice | section (*Qualifying utilities dynamic markets notices: no duty to publish a tender notice*)”

**Member's explanatory statement**

*This amendment is consequential on the Government's new Clause on qualifying utilities dynamic market notices.*

- 201 Page 76, line 11, at end insert –

“school | section 114”

**Member's explanatory statement**

*This amendment is consequential on the new definition of “school” inserted for the purposes of the Bill by the Government amendment to clause 114.*

- 202 Page 76, leave out line 13

**Member's explanatory statement**

*This amendment is consequential on the new definition of “school” inserted for the purposes of the Bill by the Government amendment to Clause 114.*

- 203 Page 76, line 13, at end insert –

“small and medium-sized enterprises | section 114”

**Member's explanatory statement**

*This amendment is consequential on the Government amendment to Clause 114 inserting a definition of “small and medium-sized enterprises”.*

# Procurement Bill [HL]

---

MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

---

*24 November 2022*

---