

Cyber Security and Resilience (Network and Information Systems) Bill

Memorandum from the Department for Digital, Culture, Media and Sport to the Delegated Powers and Regulatory Reform Committee

1. INTRODUCTION

1. This memorandum has been prepared by the Department for Digital, Culture, Media and Sport (DCMS) for the Delegated Powers and Regulatory Reform Committee (DPRRC), to assist with its scrutiny of the Cyber Security and Resilience (Network and Information Systems) Bill ('the Bill'), which in part amends the Network and Information Systems Regulations 2018 (the 'NIS Regulations'). This memorandum is supplementary to the Delegated Powers Memorandum submitted to the DPRRC upon introduction to the House of Lords on 17 June 2026 to support government amendments made at Lords Committee Stage. It explains in each case why the power has been taken and the nature of, and reason for, the procedure selected.

2. AMENDMENTS TO INTRODUCE A VENDOR RISK MANAGEMENT FRAMEWORK

1. On 24 August 2026, the government laid 64 amendments relating to a new vendor risk management framework.
2. The amendments:
 - a. Introduce a definition of the Secretary of State that includes the Chancellor of the Duchy of Lancaster as the direction powers may be exercised out of DCMS or the Cabinet Office, it is yet to be decided.
 - b. Set out the new power for the Secretary of State to direct an entity in scope of the power in relation to their use of a good, service or facility that presents a national security risk. This clause is similar in its content to clause 43, the existing power for directing entities regulated by the NIS Regulations.
 - c. Enable the Secretary of State has the power to make regulations for the timeframes for issuing vendor directions. These timeframes will apply to all cases, including those opened as a result of a voluntary referral by the entity proposing to use the good, service or facility.
 - d. Introduce a separate delegated power to enable the Secretary of State can introduce a mandatory referral scheme for certain procurements.
 - e. Set out the Parliamentary process for passing regulations bringing new entities into scope of the direction powers. The amendments note that these regulations are subject to the draft affirmative procedure but, where there is an urgent case, they are subject to the made affirmative procedure.
 - f. Establish mechanisms for the scrutiny of the use of the new direction power. This includes requiring that the Secretary of State publishes a notice that a direction has been issued and that the Secretary of State publishes an annual report in relation to directions issued during the relevant period.
 - g. Make 58 consequential changes to reflect the new framework in the existing Bill clauses.

3. DELEGATED POWERS

1. The delegated powers introduced in the amendments are:

a. Part 4, Chapter 2: Vendor directions etc

- i. **Vendor directions:** This power allows the Secretary of State to make regulations to specify an entity as being within the scope of the vendor direction provisions.
- ii. **Power to make regulations about the time frame for making vendor directions:** This power allows the Secretary of State to make regulations for the purposes of setting timelines for the process of considering and issuing a vendor direction.
- iii. **Power to establish mandatory referral scheme:** This power allows the Secretary of State to make regulations introducing a regime requiring the entities in scope of the direction power to refer certain procurements to the government for clearance.

b. Part 4, Chapter 3: General directions etc

- i. **General directions (previously titled 'Directions to regulated persons'):** This power allows the Secretary of State to make regulations to specify an entity as being in scope of the direction power in clause 43.

4. ANALYSIS OF DELEGATED POWERS BY CLAUSE

Part 4, Chapter 2: Vendor directions etc

Vendor directions

Power conferred on: Secretary of State and the Chancellor of the Duchy of Lancaster

Power exercised by: Regulations (Statutory Instrument)

Parliamentary Procedure: Draft affirmative procedure and made affirmative if the Secretary of State the Chancellor of the Duchy of Lancaster considers that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

Context and purpose

1. This delegated power allows the Secretary of State or the Chancellor of the Duchy of Lancaster to make regulations to specify an entity as being within the scope of the vendor direction power.
2. The purpose of this power is to enable the government to confirm which NIS regulated entities are in scope of the power and to bring new entities into scope of only the vendor direction power. The power can only be used to specify entities that are considered to meet one of the criterion set out in subsection (2), namely that the entity is either:
 - a. an entity regulated by the NIS Regulations;
 - b. carries on an activity the carrying on of which the Secretary of State considers to be essential to the economy of the United Kingdom or any part of the United Kingdom or the day-to-day functioning of society in the United Kingdom or any part of the United Kingdom; or

- c. provides goods or services without the provision of which the carrying on of an activity under (b) above would be at risk of disruption.
3. The regulations may make different provision for different purposes under subsection (10).
4. The clause is designed to maintain a high bar for broadening the scope of the regulatory framework. It restricts the scope of the directions powers to those entities that are providing essential activities (including services and facilities) which are essential to the running of UK society or the functioning of our economy, whilst not burdening all such entities with regulatory requirements under the NIS Regulations. This meets the government's key objective of protecting the activities that the public and businesses rely on every day and protecting the economy from harm, without imposing undue burden on businesses.

Justification for taking the power

5. This power is necessary to ensure that entities that are fundamental to the functioning of the UK economy and society can be brought in scope of the vendor direction powers, to ensure that the government can intervene where there is a national security risk arising in relation to those entities, but it is not appropriate for those entities to be brought into scope of the NIS Regulations. This may be for example because they are already subject to cyber security requirements under another regulatory regime but that regime does not include government direction powers. In this scenario, it would place undue regulatory burdens on organisations to bring them unnecessarily into scope of the NIS Regulations as a whole. That is why it is essential government has the ability to bring entities into scope of the vendor direction framework only, if that is the most appropriate course of action to mitigate cyber threats posed by vendors.
6. Without an appropriate power to update the entities in scope of the vendor direction power, the government could be left without an option to direct entities outside of the NIS framework that are using goods, services or facilities provided by vendors that have the means and capabilities to do the UK harm. The only option in these circumstances would be to pursue more primary legislation. This is an impractical position, given the pace at which cyber threats evolve and the damage that can be done to essential services through vendors in their supply chain.

Justification for the procedure

7. The requirement for regulations to undergo the draft affirmative procedure will ensure significant parliamentary scrutiny and oversight. This is appropriate because it is inevitable that directions will have direct impacts on the entities in question, and full parliamentary debate and scrutiny is required to ensure the power is used proportionately and effectively. The made affirmative procedure is required where intelligence is fast-emerging and there is a national security emergency and it is necessary and appropriate for a direction to be issued to an entity that provides an essential activity, good or service but is not yet in scope of the vendor directions.
8. The Secretary of State or the Chancellor of the Duchy of Lancaster will be required to consult such persons as they consider appropriate before making the regulations under this power. This requirement is included to ensure that organisations that are likely to be impacted by

inclusion under the vendor direction provisions have an opportunity to provide feedback and to inform the decision, where appropriate, in order to ensure transparency.

Power to make regulations about the time frame for making vendor directions:

Power conferred on: Secretary of State and the Chancellor of the Duchy of Lancaster

Power exercised by: Regulations (Statutory Instrument)

Parliamentary Procedure: Negative procedure.

Context and purpose

9. Where a direction focusses on addressing a risk posed by a certain good, service or facility that is essential for the deliverability of a relevant service, a direction could lead to delays to the procurement, replacement or renewal of the contracts for that product and potentially lead to disruption of the relevant services.
10. The new delegated power allows Secretary of State to make regulations to set timelines for decisions made under the vendor direction power. The objective of the timelines is to provide clarity on the time it will take for the government to complete investigations and decide whether to exercise the discretionary vendor direction power. The provisions will also state the circumstances in which the timelines are automatically paused, for example if an information request has not been complied with by the deadline set out in that information request.

Justification for taking the power

11. The inclusion of a power for the Secretary of State or Chancellor of Duchy of Lancaster to specify the timelines in secondary location ensures that the timelines reflect the genuine timelines required for this type of investigation and process. This will allow for the process to be iterated as it matures, allow for lessons to be learnt and the mechanism to improve over time.

Justification for the procedure

12. The negative procedure is appropriate for this power as the regulations are procedural and do not create significant new policy. In practice, the vendor power will not be used until the statutory timelines are in place and this power will only be used to set out when the timeline begins, ends and is paused. The timelines themselves will only apply to the government and will not include any deadlines that the public have to comply with. We do not consider these provisions to be controversial.

Power to establish mandatory referral scheme:

Power conferred on: Secretary of State and the Chancellor of the Duchy of Lancaster

Power exercised by: Regulations (Statutory Instrument)

Parliamentary Procedure: Draft affirmative procedure

Context and purpose

13. The vendor direction power will not be introduced in isolation. It will be supported by government guidance and a voluntary referral regime encouraging entities in scope of the

vendor direction power to consider whether use of a good or service meets the criteria for a voluntary referral to the government. Following referral, the government will investigate and could decide to issue a direction under the vendor direction power.

14. The new delegated power enables the Secretary of State and the Chancellor of the Duchy of Lancaster to convert the voluntary referral process into a mandatory process with consequences for non-compliance, if the Secretary of State considers that it is necessary and appropriate in the interests of national security.

Justification for taking the power

15. The cyber landscape is fast evolving and it is right that the Bill's delegated powers enable measures to be strengthened in the face of growing risks. Considering current intelligence, the government determines that a voluntary referral scheme to provide organisations with the support, guidance and advice, bolstered by a backstop direction power, is sufficient to mitigate risks. However, it may be necessary to establish a mandatory referral scheme in the future, if the risk profile changes. A mandatory scheme would guarantee that relevant vendors are assessed, and action taken to mitigate vendor-related risks. The delegated power will enable the government to establish a mandatory referral scheme without pursuing primary legislation. This is appropriate because any mandatory referral scheme will be established after the voluntary referral scheme has been operational and extensively socialised with entities in scope.
16. A mandatory regime can only be introduced via regulations if the Secretary of State/the Chancellor of the Duchy of Lancaster considers that it is necessary or expedient in the interests of national security. This provides an appropriate limitation of the delegated power, with consideration given to the potential impacts a mandatory scheme may have upon businesses. The power includes the ability for the Secretary of State to specify the kind of transaction that would be subject to the mandatory regime. This will ensure that the scope of the regime is proportionate to the cyber risks.

Justification for the procedure

17. The draft affirmative procedure is appropriate because it confers the power on the Secretary of State and the Chancellor of the Duchy of Lancaster to impose new requirements on entities in scope of the vendor direction power, including to introduce enforcement provisions for non-compliance. Therefore, any secondary legislation exercising this power should be subject to the draft affirmative procedure.
18. The amendment also requires the Secretary of State/Chancellor of the Duchy of Lancaster to consult such persons as the Secretary of State considers appropriate before making the regulations under this power.

Part 4, Chapter 3: General directions etc

General directions

Power conferred on: Secretary of State and the Chancellor of the Duchy of Lancaster

Power exercised by: Regulations (Statutory Instrument)

Parliamentary Procedure: Draft affirmative procedure and made affirmative if the Secretary of State or the Chancellor of the Duchy of Lancaster considers that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

Context and purpose

19. New sub-sections (1A) and (1B) have been inserted into clause 43. The new sub-sections allow the Secretary of State or the Chancellor or the Duchy of Lancaster to make regulations to bring an entity or entities into scope of the direction power under clause 43, without bringing them into scope of the entire NIS Regulations framework. This will allow the Secretary of State to direct those entities specified if a compromise to their network and information systems gives rise to a national security risk. The power can only be used to specify entities that are considered to meet one of the criterion set out in subsection (1B), namely that the entity either:
- a. carries on an activity the carrying on of which the Secretary of State considers to be essential to the economy of the United Kingdom or any part of the United Kingdom or the day-to-day functioning of society in the United Kingdom or any part of the United Kingdom; or
 - b. provides goods or services without the provision of which the carrying on of an activity under (a) above would be at risk of disruption.
20. Subsection 1B is designed to maintain a high bar for broadening which entities are in scope of the direction power. It restricts the scope to entities providing essential activities which are essential to the running of UK society or the functioning of our economy. meets the government's key objective of protecting the activities that the public and businesses rely on every day and protecting the economy from harm, without imposing undue burden on businesses.
21. New sub-section (13) has been inserted into clause 43. It states that the regulations may make different provision for different purposes.

Justification for taking the power

22. This power is necessary to ensure that entities that are fundamental to the functioning of the UK economy and society can be brought in scope of the direction power, to ensure that the government can intervene where there is a national security risk arising in relation to those entities. It may be appropriate to do this without bringing an entity into scope of the NIS Regulations. This may be, for example, because they are already subject to cyber security requirements under another regulatory regime, but that regime does not include government direction powers. In this scenario, it would place undue regulatory burdens on organisations to bring them unnecessarily into scope of the NIS Regulations as a whole. That is why it is essential government has the ability to bring entities into scope of the vendor direction framework only, if that is the most appropriate course of action to mitigate cyber threats posed by vendors.

23. Without an appropriate power to update the entities in scope of the direction power under clause 43, the government could be left without an option to direct entities outside of the NIS framework that deliver essential services and are subject to cyber risks or attacks that amount to national security risks. The only option in these circumstances would be to pursue more primary legislation. This is an impractical position, given the pace at which cyber threats evolve and the damage that can be done by leaving organisations delivering essential services vulnerable to national security risks.

Justification for the procedure

24. The requirement for regulations to undergo the draft affirmative procedure (per clause 43(14), as amended) will ensure significant parliamentary scrutiny and oversight. This is appropriate because it is inevitable that directions will have direct impacts on the entities in question, and full parliamentary debate and scrutiny is required to ensure the power is used proportionately and effectively. The made affirmative procedure is required where intelligence is fast emerging and there is a national security emergency and it is necessary and appropriate for a direction to be issued to an entity that provides an essential activity, good or service but is not yet in scope of the clause 43 directions power.
25. New subsection (3A) has been inserted into clause 43, which requires the Secretary of State or the Chancellor of the Duchy of Lancaster to consult such persons as they consider appropriate before making the regulations under this power. This requirement is included to ensure that organisations that are likely to be impacted by inclusion under the clause 43 direction power have an opportunity to provide feedback and to inform the decision, where appropriate, in order to ensure transparency.

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