

# Procurement Bill [HL]

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## AMENDMENTS TO BE MOVED IN GRAND COMMITTEE

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### Schedule 2

LORD WALLACE OF SALTAIRE

Page 79, line 12, leave out paragraph 17

***Member's explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Schedule 2. The Committee considers that the power under paragraph 17 "should be narrowed unless the Government can fully justify it".*

LORD PURVIS OF TWEED  
LORD WALLACE OF SALTAIRE

Page 79, line 40, leave out sub-paragraph (b)

***Member's explanatory statement***

*This amendment removes implementation of a joint project between signatories of an international agreement from the list of exempted contracts. The intention is that such contracts would therefore be included in the public contracts to which this Bill applies.*

LORD WALLACE OF SALTAIRE

Page 82, line 8, leave out paragraph 34

***Member's explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Schedule 2. The Committee considers that the power under paragraph 34 "should be narrowed unless the Government can fully justify it".*

### Schedule 4

LORD WALLACE OF SALTAIRE

Page 86, line 17, leave out paragraph 7

***Member's explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Schedule 4. The Committee considers that the power under paragraph 7 "should be narrowed unless the Government can fully justify it".*

**Clause 8**

LORD WALLACE OF SALTAIRE

Page 6, line 29, leave out subsection (2)

***Member's explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Clause 8. The Committee considers that the power under subsection (2) "should be narrowed unless the Government can fully justify it".*

**Clause 11**

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS YOUNG OF OLD SCONE  
BARONESS PARMINTER

Page 8, line 38, at end insert –

- “(e) contributing towards meeting the targets set under –
  - (i) Part 1 of the Climate Change Act 2008 (UK net zero emissions target and budgeting), and
  - (ii) sections 1 to 3 of the Environment Act 2021 (environmental targets); and
- (f) adapting to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change).”

***Member's explanatory statement***

*The purpose of this amendment is to extend the objectives to which contracting authorities must have regard to include certain climate and environmental matters.*

LORD WALLACE OF SALTAIRE  
LORD FOX

Page 8, line 40, leave out from “same” to end of line

***Member's explanatory statement***

*This amendment is to probe how, why and when it is justifiable to treat suppliers differently.*

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS YOUNG OF OLD SCONE  
BARONESS PARMINTER

Page 8, line 43, at end insert –

- “(4) In this section, “public benefit” means the supporting of national and local priority outcomes, including –
- (a) creating new businesses, jobs and skills in the United Kingdom,
  - (b) improving supplier diversity, innovation and resilience, and
  - (c) tackling climate change, biodiversity loss and reducing waste.”

***Member’s explanatory statement***

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

LORD WALLACE OF SALTAIRE  
LORD FOX

Page 8, line 43, at end insert –

- “(4) In this section “public benefit” includes –
- (a) the protection of the environment,
  - (b) energy efficiency,
  - (c) combatting climate change,
  - (d) promoting innovation, employment and social inclusion,
  - (e) ensuring the best possible conditions for the provision of high-quality social services, and
  - (f) in certain circumstances, developing and promoting local supply chains.”

***Member’s explanatory statement***

*This amendment seeks to define “public benefit” to include elements of social value, for the purposes of the procurement objectives.*

**Clause 12**

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS YOUNG OF OLD SCONE  
BARONESS PARMINTER

Page 9, line 11, at end insert –

- “(3A) The national procurement policy statement must include such matters as the need to –
- (a) contribute towards meeting the targets set under –
    - (i) Part 1 of the Climate Change Act 2008 (UK net zero emissions target and budgeting), and
    - (ii) sections 1 to 3 of the Environment Act 2021 (environmental targets), and
  - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change).”

**Member's explanatory statement**

*This amendment specifies certain matters which the national procurement policy statement must cover.*

BARONESS BOYCOTT

Page 9, line 11, at end insert –

- “(3A) The national procurement policy statement must include such matters and accompanying targets in relation to food and catering services as –
- (a) local and environmentally sustainable sourcing, including minimum targets of 30% rising to 50% by expenditure,
  - (b) healthy and sustainable menu choices,
  - (c) consumption of fruit, vegetables and fibre,
  - (d) resource efficiency and waste, and
  - (e) public reporting by contracting authorities in relation to the above matters.
- (3B) In complying with the requirements under subsection (3A) the Secretary of State must have regard to any reference diet produced by an appropriate authority.”

**Before Clause 14**

LORD WALLACE OF SALTAIRE  
LORD FOX

Insert the following new Clause –

**“Delivery model assessment**

- (1) Public authorities must conduct a delivery model assessment of their operating model where a significant change is required, including –
  - (a) upon the introduction of new public services;
  - (b) where a significant development to an existing service has been identified;
  - (c) where there is a need to re-evaluate the delivery model of existing services.
- (2) The delivery model assessment must evaluate the following model options in determining the most appropriate provider –
  - (a) the whole-life cost to deliver a service in-house using internal resources and expertise (the “in-house” model);
  - (b) the expected whole-life cost of procuring a service from an outside supplier (the “expected market cost” model);
  - (c) a combination of the in-house and expected market cost models (the “mixed-economy” model).
- (3) Public sector organisations may revisit the delivery model assessment periodically over the life of a service.”

**Member's explanatory statement**

*This amendment is drawn from Chapter 3 of ‘The Sourcing Playbook’ and the ‘Delivery Model Assessments Guidance Note’, and ensures that the strategic decision between outsourcing and insourcing is taken on a level playing field.*

**Clause 15**

LORD LANSLEY

Page 11, line 11, at end insert –

- “(ba) ascertaining how the tender notice may be expressed in terms of outcomes and performance indicators, for the purpose of minimising the extent of specified processes to be detailed in the tender;”

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS BOYCOTT  
BARONESS PARMINTER

Page 11, line 11, at end insert –

- “(ba) designing a procurement process which will maximise public good and encourage innovation in pursuit of a sustainable and resilient society, planet and economy;”

***Member’s explanatory statement***

*This amendment and the other in Clause 15 in the name of Baroness Worthington provide that when undertaking preliminary market engagement contracting authorities engage with suppliers in relation to designing a procurement process that will maximise public good and encourage innovation which is in pursuit of a sustainable and resilient society and that they actively seek out suppliers offering such products and services.*

Page 11, line 22, at end insert –

- “(aa) new entrant suppliers offering innovative performance and functions that enhance public benefit are actively sought out, and”

**Clause 22**

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS BOYCOTT  
BARONESS PARMINTER

Page 15, line 18, at end insert –

- “(ba) align with Government obligations under –
- (i) the targets set out in Part 1 of the Climate Change Act 2008 (UK net zero emissions target and budgeting),
  - (ii) the environmental targets set out in sections 1 to 3 of the Environment Act 2021,
  - (iii) the Agricultural Transition Plan produced under section 4 of the Agriculture Act 2020,
  - (iv) the Government Food Strategy, and
  - (v) adaptation to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008,”

***Member's explanatory statement***

*This amendment provides that when setting award criteria a contracting authority must be satisfied that they align with the UK's net zero and environmental targets and adaptation provisions.*

Page 15, line 43, at end insert –

“(ba) the desired public good, including social and environmental impact, of the supplied goods, services or works, including over the longer term;”

***Member's explanatory statement***

*This amendment provides that the subject-matter of a contract should include reference to the social and environmental impact of the supplied goods, services or works.*

**Clause 33**

LORD WALLACE OF SALTAIRE

Page 22, line 4, leave out subsection (8)

***Member's explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Clause 33. The Committee considers that the power under subsection (8) “should be narrowed unless the Government can fully justify it”.*

**Clause 82**

LORD PURVIS OF TWEED  
LORD WALLACE OF SALTAIRE

Page 53, line 37, 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.*

LORD WALLACE OF SALTAIRE

Page 53, line 46, leave out “a British Overseas Territory or a Crown Dependency”

***Member's explanatory statement***

*This amendment probes the inclusion of the Crown Dependencies and British Overseas Territories in the definition of “United Kingdom supplier”.*

**Clause 86**

BARONESS WORTHINGTON  
BARONESS BOYCOTT

Page 55, line 23, at end insert –

“(1A) Regulations under subsection (1) must –

- (a) require information to be available for access to any user without restriction,
- (b) require information to be published in a standardised machine-readable form, and
- (c) require information to be published under a Crown copyright licence.”

***Member’s explanatory statement***

*This amendment makes certain transparency provisions for the publication of notices, documents and information.*

LORD WALLACE OF SALTAIRE

*Lord Wallace of Saltaire gives notice of his intention to oppose the Question that Clause 86 stand part of the Bill.*

***Member’s explanatory statement***

*This is intended to allow debate on a Delegated Powers and Regulatory Reform Committee recommendation. The Committee considers the power under Clause 86 to prescribe in regulations the information that must be set out in 16 types of notices to be “broad” and that “more needs to be said in the Bill itself about the information that must be published”.*

**Clause 109**

LORD WALLACE OF SALTAIRE

*Lord Wallace of Saltaire gives notice of his intention to oppose the Question that Clause 109 stand part of the Bill.*

***Member’s explanatory statement***

*This amendment is intended to allow a debate on a recommendation from the Delegated Powers and Regulatory Reform Committee in respect of Clause 109. The Committee considers that the power under Clause 109 “should be narrowed unless the Government can fully justify it”.*

**Clause 110**

LORD WALLACE OF SALTAIRE

Page 68, line 41, at end insert –

“(s) paragraph 3(3) of Schedule 10 (qualifying defence contracts)”.

***Member’s explanatory statement***

*This amendment ensures that regulations specifying a method for determining the price payable under a qualifying defence contract are subject to the affirmative resolution procedure, as recommended by the Delegated Powers and Regulatory Reform Committee.*

Page 68, line 41, at end insert –

- “(4A) A statutory instrument containing (whether alone or with any other provision) regulations made by a Minister of the Crown which make above-inflation increases to any of the financial thresholds under any of the following provisions may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament –
- (a) section 51 (contract details notices and publication of contracts);
  - (b) section 65 (information about payments under public contracts);
  - (c) section 70 (contract change notices and publication of modifications);
  - (d) section 78 (regulated below-threshold contracts: procedure);
  - (e) section 79 (regulated below-threshold contracts: notices);
  - (f) section 84 (pipeline notices).”

***Member’s explanatory statement***

*This amendment ensures that regulations making above-inflation increases to financial thresholds are subject to the affirmative resolution procedure, as recommended by the Delegated Powers and Regulatory Reform Committee.*

**Clause 115**

BARONESS WORTHINGTON  
BARONESS VERMA  
BARONESS YOUNG OF OLD SCONE  
BARONESS PARMINTER

Page 73, line 8, leave out “comes” and insert “and section 12 come”



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*23 June 2022*

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