

# Procurement Bill [HL]

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE  
*[Supplementary to the Second Marshalled List]*

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Amendment  
No.

**Schedule 2**

BARONESS NOAKES  
*As an amendment to Amendment 11*

11A★ Leave out sub-paragraph (2A)

**Clause 11**

LORD PURVIS OF TWEED

59A★ Page 8, line 43, at end insert –

“(4) In this section “public benefit” includes social and environmental sustainability and the use of products that are fairly traded.”

***Member’s explanatory statement***

*This amendment is intended to probe the commitment of public authorities to the purchase of Fairtrade-certified products where possible when carrying out a procurement.*

**Clause 57**

LORD WALLACE OF SALTAIRE

349A★ Page 36, line 5, leave out “An appropriate authority” and insert “The Procurement Review Unit”

***Member’s explanatory statement***

*This amendment relates to Lord Wallace’s amendment to insert a new clause after Clause 61 (Procurement Review Unit).*

**Clause 59**

LORD WALLACE OF SALTAIRE

349B★ Page 37, line 44, after “Crown” insert “, with the advice of the Procurement Review Unit”

**Member's explanatory statement**

*This amendment relates to Lord Wallace's amendment to insert a new clause after Clause 61 (Procurement Review Unit).*

**After Clause 61**

LORD WALLACE OF SALTAIRE

**353A★** Insert the following new Clause –

**“Procurement Review Unit**

- (1) There is to be a Procurement Review Unit (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**

LORD MENDELSON

**353B★** Page 40, line 9, after “(5)” insert “and in Schedule (*Resolving payment disputes and referral to the Small Business Commissioner*)”

**Member's explanatory statement**

*The Bill allows a buyer to dispute an invoice but fails to address potential abuse or cover up for late payments. This wording (taken from a Private Member's Bill) removes an incentive to dispute every invoice so as to reduce spurious claims, and automatically adds interest and compensation to late payments.*

**Clause 64**

LORD MENDELSON

**356A★** Leave out Clause 64 and insert the following new Clause –

**“Reporting on payment practices and performance**

A contracting authority is a qualifying company for the purposes of the Reporting on Payment Practices and Performance Regulations 2017 (S.I. 2017/395).”

**Member's explanatory statement**

*This amendment is intended to streamline reporting procedures with one location for reporting and obtaining information relating to public and private payment practices.*

### Before Schedule 8

LORD MENDELSON

- 370A★** Insert the following new Schedule—
- “RESOLVING PAYMENT DISPUTES AND REFERRAL TO THE SMALL BUSINESS COMMISSIONER
- 1 Upon notification of a dispute, the parties (supplier and purchaser) have 30 days to resolve the dispute (“the resolution period”).
  - 2 The resolution period may be extended if both parties agree to an extension in writing.
  - 3 For a dispute resolution to be agreed, both parties must confirm the agreed terms of resolution in writing.
  - 4 For the purposes of paragraphs 2 and 3, there is an agreement in writing—
    - (a) if the agreement is made in writing,
    - (b) if the agreement is made by exchange of communications in writing, or
    - (c) if the agreement is evidenced in writing,
 by both parties.
  - 5 If a resolution between the two parties is not agreed within the resolution period, either party may complain to the Small Business Commissioner under the scheme established in accordance with section 4 of the Enterprise Act 2016.
  - 6 If the dispute is found or agreed to be unwarranted, the contracting authority must include a payment for interest and compensation payable to the payee for the duration beyond the day on which payment falls due had no dispute been raised in accordance with provisions of the Late Payment of Commercial Debts (Interest) Act 1998.
  - 7 Where a sum due is not paid in accordance with section 63(2) or (7), or 80(2) or (11) of this Act, and where a contracting authority has not notified a payee in accordance with section 63(4) or 80(4) of this Act, compensation and statutory interest as stipulated by the Late Payment of Commercial Debts (Interest) Act 1998 must be paid at the same time as the invoice regardless of whether the supplier has requested the compensation for late payment.
  - 8 If a contracting authority fails to comply with paragraph 7 and remedy any breach within 30 days of the payment due date as set out in section 63(2) or (7), or 80(2) or (11) of this Act, the rate of compensation and statutory interest is increased by 100%.”

***Member’s explanatory statement***

*The Bill allows a buyer to dispute an invoice but fails to address potential abuse or cover up for late payments. This wording (taken from a Private Member’s Bill) removes an incentive to dispute every invoice so as to reduce spurious claims, and automatically adds interest and compensation to late payments.*

### Clause 80

LORD MENDELSON

- 430A★** Page 51, line 24, after “(5)” insert “and in Schedule (*Resolving payment disputes and referral to the Small Business Commissioner*)”

**Member's explanatory statement**

*The Bill allows a buyer to dispute an invoice but fails to address potential abuse or cover up for late payments. This wording (taken from a Private Member's Bill) removes an incentive to dispute every invoice so as to reduce spurious claims, and automatically adds interest and compensation to late payments.*

**Clause 86**

LORD CLEMENT-JONES

**452A★** Page 55, line 26, leave out paragraph (b)

**Member's explanatory statement**

*This amendment, and Lord Clement-Jones's amendment to page 55, line 32, are intended to ensure that future regulations do not contravene the purpose of the single digital platform wherever possible, and to support the move to streamlining the different publication requirements for procurement information and contract spend data that are placed upon local government and the public sector.*

**452B★** Page 55, line 32, at end insert –

“(4) Notices, documents or other information subject to regulations under subsection (1) must in all cases be published on a single digital platform.”

**Member's explanatory statement**

*This amendment, and Lord Clement-Jones's amendment to page 55, line 26, are intended to ensure that future regulations do not contravene the purpose of the single digital platform wherever possible, and to support the move to streamlining the different publication requirements for procurement information and contract spend data that are placed upon local government and the public sector.*

**After Clause 104**

LORD CLEMENT-JONES

**519A★** Insert the following new Clause –

**“Amendment of the Transport Act 1985**

In section 89 of the Transport Act 1985 (obligation to invite tenders for subsidised services), omit subsection (4)(b) and subsection (5).”

**Member's explanatory statement**

*This amendment removes the requirement for local authorities to issue notices of tender individually to all persons who have given to that authority a written notice indicating that they wish to receive invitations to tender for the provision of local services for that authority's area. This would bring the requirements to advertise tenders for transport services into line with those set out in the Bill, ensuring the single digital platform is where all public tenders are advertised in one place.*

**519B★** Insert the following new Clause –

**“Amendment of the Service Subsidy Agreements (Tendering) (England) Regulations 2002**

In the Service Subsidy Agreements (Tendering) (England) Regulations 2002, omit regulations 4 and 5 (information with respect to tenders).”

***Member's explanatory statement***

*Removing the two regulations specified in the amendment ensures that information about contract pipelines and contract awards for service subsidies will in future be published in the same place and in the same format as information about any other public contract, to improve consistency and accessibility.*

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*5 July 2022*

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