

Procurement Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

Before Clause 1

BARONESS NEVILLE-ROLFE

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.
- (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

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—

- (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.

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.

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”.

Clause 5

BARONESS NEVILLE-ROLFE

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.

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).

Clause 9

BARONESS NEVILLE-ROLFE

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.

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.

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.

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.

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

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.

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.

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.

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.

Clause 11

BARONESS NEVILLE-ROLFE

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.

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.

Clause 12

BARONESS NEVILLE-ROLFE

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.

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

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.

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.

Clause 20

BARONESS NEVILLE-ROLFE

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.

Clause 28

BARONESS NEVILLE-ROLFE

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.

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

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.

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

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.

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.

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.

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.

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.

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

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 54

BARONESS NEVILLE-ROLFE

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.***Clause 63**

BARONESS NEVILLE-ROLFE

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.*

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

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

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

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

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

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.

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

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.

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

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.

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.

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.

Clause 77

BARONESS NEVILLE-ROLFE

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

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.

Clause 79

BARONESS NEVILLE-ROLFE

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.

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.

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.

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.

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.

Clause 83

BARONESS NEVILLE-ROLFE

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.

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

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.

Clause 85

BARONESS NEVILLE-ROLFE

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 89

BARONESS NEVILLE-ROLFE

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

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

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.

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.

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

Member’s explanatory statement

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

Clause 99

BARONESS NEVILLE-ROLFE

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 102

BARONESS NEVILLE-ROLFE

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.

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.

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.

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.

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

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.

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.

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

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.

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.

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.

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.

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

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.

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

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.

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.

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.

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.

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.

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 111

BARONESS NEVILLE-ROLFE

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.

Clause 113

BARONESS NEVILLE-ROLFE

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.

Clause 114

BARONESS NEVILLE-ROLFE

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 –

Clause 114 - continued

- (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.

BARONESS NOAKES

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

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.

Clause 115

BARONESS NEVILLE-ROLFE

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.

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.

Page 75, line 5, at end insert –

“competitive flexible procedure	section 19
competitive tendering procedure	section 19”

Member’s explanatory statement

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

Page 75, line 12, at end insert –

“convertible contract	section 69
covered procurement	section (<i>Procurement and covered</i>
	<i>procurement</i>)
debarment list	section 54”

Member’s explanatory statement

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

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.

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.

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.

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.

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.

Schedule 1

BARONESS NEVILLE-ROLFE

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

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.

Schedule 4

BARONESS NEVILLE-ROLFE

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.

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

Member's explanatory statement

This amendment would remove the definition of "network".

Schedule 6

BARONESS NEVILLE-ROLFE

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.

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.

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.

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

BARONESS NEVILLE-ROLFE

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.

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.

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.

Procurement Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

15 November 2022
