

Procurement Bill [HL]

AMENDMENTS TO BE MOVED ON REPORT

Clause 1

BARONESS BRINTON
LORD SCRIVEN

As an amendment to the amendment tabled by Baroness Neville-Rolfe to Clause 1, page 1, line 5, printed on HL Bill 63(e)

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 the amendment tabled by Baroness Neville-Rolfe to Clause 1, page 1, line 5, printed on HL Bill 63(e)

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.

Clause 11

LORD WALLACE OF SALTAIRE
LORD FOX

As an amendment to the amendment tabled by Baroness Neville-Rolfe to Clause 11, page 8, line 43, printed on HL Bill 63(h)

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.

Clause 40

LORD SCRIVEN
BARONESS BRINTON

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 61

LORD WALLACE OF SALTIRE

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 76

LORD FOX
LORD SCRIVEN

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;

Clause 76 - continued

- (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.

After Clause 80

LORD WALLACE OF SALTIRE
 LORD FOX

As an amendment to the amendment tabled by Baroness Neville-Rolfe after Clause 80, printed on HL Bill 63(h)

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 111

LORD HUNT OF KINGS HEATH

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.

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

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.

Schedule 7

LORD FOX

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.

Procurement Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

23 November 2022
