

National Security Bill

THIRD MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 6th December 2022, as follows –

Clauses 1 to 14	Schedule 9
Schedule 1	Clauses 50 to 52
Clauses 15 to 21	Schedule 10
Schedule 2	Clauses 53 to 56
Clause 22	Schedule 11
Schedule 3	Clause 57
Clause 23	Schedule 12
Schedule 4	Clauses 58 to 63
Clause 24	Schedule 13
Schedule 5	Clauses 64 to 71
Clause 25	Schedule 14
Schedule 6	Clauses 72 to 86
Clauses 26 to 37	Schedule 15
Schedule 7	Clauses 87 to 90
Clauses 38 to 41	Schedule 16
Schedule 8	Clauses 91 to 98
Clauses 42 to 49	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 28

LORD PURVIS OF TWEED

63A★ Clause 28, page 21, line 14, at end insert –

- “6 Paragraph 5 does not apply in relation to an alleged offence under section 44, 45 or 46 that relates to conduct involving –
- (a) the intentional unlawful killing of a person,
 - (b) torture or inhuman, cruel or degrading treatment or punishment, or
 - (c) the violation of a person’s sexual integrity.

- 7 Paragraph 6 does not prevent a decision not to prosecute in the public interest.”

Member's explanatory statement

This probing amendment would ensure that the immunity provided to Ministers and officials who assist or encourage crimes under the Serious Crime Act 2007 does not cover torture, murder or sexual offences.

LORD ANDERSON OF IPSWICH
LORD CARLILE OF BERRIEW
LORD JUDGE

- 64 Leave out Clause 28 and insert the following new Clause –

“Offences under Part 2 of the Serious Crime Act 2007

In section 7 of the Intelligence Services Act 1994 (authorisation of acts outside the British Islands) after subsection (9) insert –

- “(9A) For the purposes of this section the reference in subsection (1) to an act done outside the British Islands also includes a reference to any relevant behaviour in respect of which the provisions of Schedule 4 to the Serious Crime Act 2007 apply.””

Member's explanatory statement

This amendment would allow the Secretary of State, under the supervision of IPCO, to authorise the doing of acts falling within the scope of Schedule 4 to the Serious Crime Act 2007 if they are necessary for the proper discharge of a function of the Security and Intelligence Agencies and if satisfactory arrangements are in force.

LORD COAKER
LORD PURVIS OF TWEED

The above-named Lords give notice of their intention to oppose the Question that Clause 28 stand part of the Bill.

Clause 29

LORD MARKS OF HENLEY-ON-THAMES
LORD PURVIS OF TWEED

- 65 Clause 29, page 21, line 21, leave out “, or ought reasonably to know,”

Member's explanatory statement

This amendment is intended to tighten the scope of the foreign power condition in Clause 29.

LORD MARKS OF HENLEY-ON-THAMES
LORD PURVIS OF TWEED

66 Clause 29, page 21, line 21, at end insert –

“(c) the conduct in question is carried out for the purpose of prejudicing the safety or security or defence interests of the United Kingdom.”

Member's explanatory statement

This amendment adds a further intentional element to the foreign power condition in Clause 29.

BARONESS JONES OF MOULSECOOMB

66A Clause 29, page 21, line 33, at end insert “but, where the conduct or course of conduct is for the purposes of journalism or civil society activity, subsections (1)(a) and (2) may be satisfied only if the conduct or course of conduct is instigated by or under the direction and control of a foreign power within the meaning of subsection (2)(a) or (b).”

Clause 30

LORD MARKS OF HENLEY-ON-THAMES
LORD WALLACE OF SALTAIRE

67 Clause 30, page 22, line 6, at beginning insert “Subject to subsection (1A),”

Member's explanatory statement

This amendment is connected to the amendment to page 22, line 15.

LORD MARKS OF HENLEY-ON-THAMES
LORD PURVIS OF TWEED
BARONESS HAYTER OF KENTISH TOWN

68 Clause 30, page 22, line 14, leave out paragraph (e)

Member's explanatory statement

This amendment removes an element from the definition of “foreign power”.

LORD MARKS OF HENLEY-ON-THAMES
LORD WALLACE OF SALTAIRE

69 Clause 30, page 22, line 15, at end insert –

“(f) a corporation or other economic or political entity that is in practice working on behalf of a foreign government, whether pursuant to contract or otherwise.”

LORD MARKS OF HENLEY-ON-THAMES
LORD WALLACE OF SALTAIRE

- 70 Clause 30, page 22, line 15, at end insert –
“(1A) In this Part “foreign power” does not include –
(a) any member of NATO, or
(b) any other nation excluded from the definition of “foreign power” by regulations made by the Secretary of State.”

Member's explanatory statement

This is a probing amendment to provide for exclusions to the definition of “foreign power”.

LORD MARKS OF HENLEY-ON-THAMES
LORD PURVIS OF TWEED

- 71 Clause 30, page 22, line 16, leave out subsections (2) and (3)

Member's explanatory statement

This amendment is consequential on Lord Marks' amendment to page 22, line 14.

Clause 31

BARONESS LUDFORD

- 72 Clause 31, page 23, line 3, leave out paragraph (c)

Member's explanatory statement

This amendment is recommended by the JCHR and would narrow the definition of foreign power threat activity to remove giving support and assistance (including support and assistance unrelated to espionage activity) to a person known or believed to be involved in offences under the Bill (but would retain conduct which facilitates or is intended to facilitate such offending).

Clause 34

LORD SHARPE OF EPSOM

- 73 Clause 34, page 25, line 20, leave out from “(1)” to end of line 21 and insert “is subject to sections 3(6) and 15(6) (commission of offences under sections 3 and 15 by conduct outside the United Kingdom).”

Member's explanatory statement

This amendment provides that Clause 34(1) is subject to specific provisions in Clauses 3 and 15 about when conduct taking place outside the UK can constitute an offence under those Clauses.

Clause 36

BARONESS LUDFORD

- 74 Clause 36, page 26, line 5, leave out “in the interests of national security” and insert “for the administration of justice, having regard to the risk to national security”

Member's explanatory statement

This amendment is based on a recommendation from the JCHR. It ensures this Clause better complies with the right to a fair trial and the administration of justice.

After Clause 36LORD MARKS OF HENLEY-ON-THAMES
LORD PURVIS OF TWEED

- 75 After Clause 36, insert the following new Clause—

“Public interest defence

- (1) A person subject to proceedings for any offence under sections 1 to 5 of this Act may raise as a defence that the person reasonably believed the conduct alleged to constitute the offence was carried out in the public interest.
- (2) Where a defence under subsection (1) is raised, it is for the prosecution to prove beyond reasonable doubt that the conduct alleged was not in the public interest.
- (3) In determining whether such conduct was in the public interest the court must have regard to—
 - (a) the nature of the alleged conduct;
 - (b) the harm caused by the alleged conduct;
 - (c) whether the manner in which the person engaged in the alleged conduct was in the public interest;
 - (d) whether the person engaged in the alleged conduct in good faith;
 - (e) whether the person engaged in the alleged conduct for personal gain;
 - (f) the availability of any other effective authorised procedures for achieving the purpose of the alleged conduct and whether those procedures were exercised;
 - (g) any other relevant feature of the alleged conduct.”

Member's explanatory statement

This amendment provides for a public interest defence to the offences under Clauses 1 to 5 of the Bill.

Schedule 7

BARONESS LUDFORD

76 Schedule 7, page 137, line 14, at end insert –

“(2A) The requirement under paragraph 1(2)(c) must not exceed a 14-hour period.”

Member's explanatory statement

This amendment is based on a recommendation of the JCHR. It is designed to ensure that rights under Article 5 of the ECHR are not infringed, and therefore it sets a 14-hour limit on the time that the subject of Prevention and Investigation Measures could be required to remain in their residence.

Clause 44

BARONESS LUDFORD

77 Clause 44, page 30, line 24, leave out from “must” to “before” in line 25 and insert “obtain confirmation from the chief officer of the appropriate police force that the condition in subsection (2) is satisfied”

Member's explanatory statement

This amendment is recommended by the JCHR and would require the Secretary of State to receive confirmation from the police that prosecution is not realistic before imposing a PIM, rather than requiring only a consultation on the subject.

BARONESS LUDFORD

78 Clause 44, page 30, line 31, leave out “The matter is whether there is” and insert “The condition is that there is no”

Member's explanatory statement

This amendment is consequential to the amendment on page 30, line 24.

BARONESS LUDFORD

79 Clause 44, page 31, line 17, leave out “responding to consultation” and insert “providing confirmation”

Member's explanatory statement

This amendment is consequential to the amendment on page 30, line 24.

Clause 54

BARONESS LUDFORD

80 Clause 54, page 38, line 22, after second “of” insert “Part 1 and”

Member's explanatory statement

This amendment is recommended by the JCHR and would extend the review function of the Independent Reviewer to cover Part 1 of the Bill in addition to Part 2.

LORD ANDERSON OF IPSWICH
LORD CARLILE OF BERRIEW
LORD JUDGE
LORD PONSONBY OF SHULBREDE

81 Leave out Clause 54 and insert the following new Clause –

“Reviews of Parts 1, 2, 4 and 5

- (1) The operation of Parts 1, 2, 4 and 5 of this Act must be reviewed by a person, or people, appointed by the Secretary of State.
- (2) The operation of Part 4 must be reviewed by the person appointed by the Secretary of State under section 36(1) of the Terrorism Act 2006.
- (3) The operation of Parts 1, 2 and 5 must be reviewed by either –
 - (a) the person appointed by the Secretary of State under section 36(1) of the Terrorism Act 2006, or
 - (b) a different person appointed by the Secretary of State.
- (4) Reviews under this section must be carried out in respect of –
 - (a) the 12-month period beginning with the day on which any section in this Part comes into force, and
 - (b) each subsequent 12-month period.
- (5) Each review under subsection (1) must be completed as soon as reasonably practicable after the period to which it relates.
- (6) The person or people mentioned in subsections (2) and (3) must send to the Secretary of State a report on the outcome of each review carried out under subsection (1) as soon as reasonably practicable after completion of the review.
- (7) On receiving a report under subsection (6), the Secretary of State must lay a copy of it before each House of Parliament.
- (8) Section 36(6) of the Terrorism Act 2006 has effect as if the references to “expenses” and “allowances” in that subsection included “expenses” and “allowances” in connection with the discharge by the person or people of functions under this section.”

Member's explanatory statement

This amendment would provide for the regular review of the operation of Parts 1, 4, and 5 of the Act as well as of Part 2.

Clause 62

LORD SHARPE OF EPSOM

82 Clause 62, page 43, line 23, after “an” insert “agreement or”

Member's explanatory statement

This amendment clarifies that agreements can be “foreign activity arrangements”.

After Clause 63

LORD PONSONBY OF SHULBREDE

83 After Clause 63, insert the following new Clause—

“Definition of “specified persons”

Within 60 days of this Act being passed, the Secretary of State must make regulations under section 63 to define “specified persons”.

Member's explanatory statement

This amendment means that the Government must define “specified persons”.

Schedule 13

LORD WALLACE OF SALTAIRE

84 Schedule 13, page 175, line 33, at end insert—

“(3A) Condition 2A is that the foreign power contributes, directly or indirectly, more than 25% of the annual revenue of the person.”

Member's explanatory statement

This amendment adds an additional condition to determining if a person is controlled by a foreign power. It is intended to further increase transparency.

Clause 65

LORD SHARPE OF EPSOM

85 Clause 65, page 44, line 29, leave out from second “the” to end of line 30 and insert “activities are registered with the Secretary of State by the specified person.”

Member's explanatory statement

This amendment clarifies that the activities being carried out must be registered at the time they are carried out.

LORD SHARPE OF EPSOM

- 86 Clause 65, page 44, line 33, leave out from second “the” to end of line 34 and insert “activities are registered with the Secretary of State by the specified person.”

Member's explanatory statement

This amendment clarifies that the activities being carried out must be registered at the time they are carried out.

LORD SHARPE OF EPSOM

- 87 Clause 65, page 45, line 1, leave out from first “the” to end of line 2 and insert “activities are not registered with the Secretary of State by the specified person.”

Member's explanatory statement

This amendment clarifies that the activities being carried out must be registered at the time they are carried out.

After Clause 65

LORD PONSONBY OF SHULBREDE
LORD WALLACE OF SALTIRE

- 88 After Clause 65, insert the following new Clause –

“Guidance in relation to the foreign influence registration scheme

Within six months of this Act being passed, the Secretary of State must publish guidance in relation to the implementation of sections 62 to 65 for –

- (a) universities;
- (b) charities;
- (c) journalists;
- (d) civil society;
- (e) any other groups deemed relevant by the Secretary of State.”

Member's explanatory statement

This amendment would ensure guidance is provided on the Foreign Influence Registration Scheme.

Clause 66

LORD SHARPE OF EPSOM

- 89 Clause 66, page 45, line 19, after “an” insert “agreement or”

Member's explanatory statement

This amendment clarifies that agreements can be “foreign influence arrangements”.

LORD ANDERSON OF IPSWICH
 LORD CARLILE OF BERRIEW
 BARONESS HAYTER OF KENTISH TOWN
 LORD WALLACE OF SALTAIRE

The above-named Lords give notice of their intention to oppose the Question that Clause 66 stand part of the Bill.

Clause 67

BARONESS NOAKES

89A Clause 67, page 45, line 36, leave out paragraphs (b) and (c) and insert—

“(b) any body or unincorporated association, wherever incorporated or formed, which is controlled by a foreign power,”

Member's explanatory statement

This amendment seeks to restrict foreign principals to those which are controlled by a foreign power. It also extends to bodies incorporated or formed in the UK.

LORD ANDERSON OF IPSWICH
 LORD CARLILE OF BERRIEW
 BARONESS HAYTER OF KENTISH TOWN
 LORD WALLACE OF SALTAIRE

The above-named Lords give notice of their intention to oppose the Question that Clause 67 stand part of the Bill.

Clause 68

BARONESS NOAKES

89B Clause 68, page 46, line 25, after “subsection (2)”, insert “and not exempted under subsection (2A),”

Member's explanatory statement

This amendment is a paving amendment for a further amendment to Clause 68 creating new subsections (2A) and (2B), which seeks to exempt commercial activities from the definition of political influence activities and to give the Secretary of State power to exempt other activities without national security implications.

BARONESS NOAKES

89C Clause 68, page 46, line 29, after “communication” insert “, except where it is reasonably clear from the communication that it is made at the direction of the foreign principal,”

Member's explanatory statement

This amendment probes why communications within paragraphs (a) and (b) are not treated in the same way if the communication is clear as to the involvement of a foreign principal.

LORD SHARPE OF EPSOM

- 90 Clause 68, page 46, line 29, at end insert “a person listed in Schedule (*Public officials*);”

Member's explanatory statement

This amendment inserts a reference to the new Schedule inserted by Lord Sharpe after Schedule 13.

LORD SHARPE OF EPSOM

- 91 Clause 68, page 46, line 30, leave out sub-paragraphs (i) to (vi)

Member's explanatory statement

This amendment removes the list of persons in clause 68(2)(a). Those persons are now listed (with additional persons) in the new Schedule inserted by Lord Sharpe after Schedule 13.

LORD SHARPE OF EPSOM

- 92 Clause 68, page 47, line 5, after “made” insert “by or”

Member's explanatory statement

This amendment provides that public communications are not within clause 68(2) if it is reasonably clear they are made by a foreign principal.

BARONESS NOAKES

- 92A Clause 68, page 47, line 7, at end insert –

“(2A) The exempted activities within this subsection are –

- (a) activities carried out as a part of a commercial or business activity, or
- (b) those specified by the Secretary of State in regulations made under subsection (2B).

(2B) The Secretary of State may make regulations exempting activities which appear to the Secretary of State to be unlikely to raise any issues of national security.”

Member's explanatory statement

This amendment seeks to exempt commercial activities from the definition of political influence activities and to give the Secretary of State power to exempt other activities which do not have national security implications.

LORD ANDERSON OF IPSWICH

As an amendment to Amendment 92A

92B In subsection (2A), after paragraph (a) insert –

- “(aa) activities carried out for regulatory or administrative purposes,
- (ab) activities carried out pursuant to the charitable purposes of UK-registered charities, including but not limited to the furtherance of peace-building, international development, humanitarian assistance, activity relating to climate change and human rights, or”

Member's explanatory statement

This amendment supplements the proposed commercial exemption with exemptions for administrative or regulatory dealings and charitable activities.

LORD SHARPE OF EPSOM

93 Clause 68, page 47, leave out lines 26 to 41

Member's explanatory statement

This amendment removes definitions that are no longer needed in clause 68 because the terms they define have been removed by Lord Sharpe's amendment to clause 68, page 46, line 30.

LORD ANDERSON OF IPSWICH
LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN
LORD WALLACE OF SALTAIRE

The above-named Lords give notice of their intention to oppose the Question that Clause 68 stand part of the Bill.

Clause 69

LORD ANDERSON OF IPSWICH
LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN
LORD WALLACE OF SALTAIRE

The above-named Lords give notice of their intention to oppose the Question that Clause 69 stand part of the Bill.

Clause 70

LORD SHARPE OF EPSOM

94 Clause 70, page 48, line 15, leave out from second “the” to end of line 16 and insert “activities are registered with the Secretary of State by the foreign principal.”

Member's explanatory statement

This amendment clarifies that the political influence activities being carried out must be registered at the time they are carried out.

LORD SHARPE OF EPSOM

- 95 Clause 70, page 48, line 20, leave out from first “the” to end and insert “activities are registered with the Secretary of State by the foreign principal.”

Member's explanatory statement

This amendment clarifies that the political influence activities being carried out must be registered at the time they are carried out.

LORD SHARPE OF EPSOM

- 96 Clause 70, page 48, line 28, leave out from first “the” to end of line 29 and insert “activities are not registered with the Secretary of State by the foreign principal.”

Member's explanatory statement

This amendment clarifies that the political influence activities being carried out must be registered at the time they are carried out.

LORD ANDERSON OF IPSWICH
LORD CARLILE OF BERRIEW
BARONESS HAYTER OF KENTISH TOWN
LORD WALLACE OF SALTIRE

The above-named Lords give notice of their intention to oppose the Question that Clause 70 stand part of the Bill.

After Clause 70

LORD WALLACE OF SALTIRE

- 97 After Clause 70, insert the following new Clause –

“Higher education guidance

- (1) Within three months of the day on which this Act is passed, the Secretary of State must publish guidance for the higher education and research sector in relation to provisions in this Act, which includes, but is not limited to –
 - (a) a clear explanation of the type of arrangements to be captured in respect of which higher education institutions must register with the Secretary of State;
 - (b) how the provisions of the Act affect research activities including those associated with contract research, unfunded academic collaborations, and joint research centres.

- (2) The Secretary of State must consult the higher education and research sector on draft guidance and include feedback in the final publication.”

Member's explanatory statement

This amendment ensures that UK higher education institutions submit the correct information, and are not inhibited in other aspects of their international activities by concern about overstepping activities that remain permitted.

Before Schedule 14

LORD SHARPE OF EPSOM

98 Before Schedule 14, insert the following new Schedule—

“SCHEDULE

Section 68

PUBLIC OFFICIALS

Ministers

- 1 A Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- 2 A Northern Ireland Minister (within the meaning of section 68).
- 3 A Scottish Minister.
- 4 A Welsh Minister (within the meaning of section 68).

MPs etc

- 5 A member of either House of Parliament.
- 6 A member of the Northern Ireland Assembly.
- 7 A member of the Scottish Parliament.
- 8 A member of Senedd Cymru.
- 9 An employee or other member of staff of a person within any of paragraphs 5 to 8.

Local government

- 10 The Mayor of London.
- 11 A mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

Political parties

- 12 An officer, trustee or agent of a UK registered political party (within the meaning of section 68).

- 13 A member of such a political party who exercises executive functions on behalf of the party.

Election candidates

- 14 A candidate at an election for a relevant elective office (within the meaning of section 37 of the Elections Act 2022).
- 15 A candidate at an election for a relevant Scottish elective office (within the meaning of that section).

Civil servants

- 16 (1) A member of—
- (a) the Senior Civil Service;
 - (b) the Northern Ireland Senior Civil Service;
 - (c) the Senior Management Structure of Her Majesty’s Diplomatic Service.
- (2) A person who serves the government in a position in the civil service of the State and whose appointment to that position meets the requirements applicable to that position set out in section 15(1) of the Constitutional Reform and Governance Act 2010 (special advisers).
- (3) A person appointed to a position in the Northern Ireland Civil Service by a Northern Ireland Minister (within the meaning of section 68) and whose appointment to that position meets the conditions set out in section 1(3) and (4) of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 (c. 8 (N.I.)) (special advisers).

Military personnel

- 17 (1) An officer subject to service law who is of or above the rank of commodore, brigadier or air commodore.
- (2) In sub-paragraph (1), “subject to service law” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).

Police

- 18 The chief constable or deputy chief constable of a police force maintained under section 2 of the Police Act 1996.
- 19 A police and crime commissioner.
- 20 A person of one of the following ranks of the metropolitan police force—
- (a) Commissioner of Police of the Metropolis;
 - (b) Deputy Commissioner of Police of the Metropolis;
 - (c) Assistant Commissioner of Police of the Metropolis;
 - (d) Deputy Assistant Commissioner of Police of the Metropolis.
- 21 The Commissioner of Police for the City of London or an Assistant Commissioner of Police for the City of London.

- 22 The chief constable or deputy chief constable of the Police Service of Northern Ireland.
- 23 The chief constable or a deputy chief constable of the Police Service of Scotland.
- 24 The chief constable or a deputy chief constable of the Ministry of Defence Police.
- 25 The chief constable or deputy chief constable of the British Transport Police Force.
- 26 The chief constable or deputy chief constable of the Civil Nuclear Constabulary.

Persons exercising public functions

- 27 (1) A person exercising public functions who is specified by the Secretary of State in regulations.
- (2) “Public functions” means functions of a public nature –
- (a) exercisable in the United Kingdom, or
 - (b) exercisable in a country or territory outside the United Kingdom by a person acting for or on behalf of, or holding office under, the Crown.”

Member's explanatory statement

This new Schedule expands the list of persons, communication with whom is capable of being a political influence activity. It includes the persons previously listed in clause 68(2)(a), and additional persons.

Schedule 14

LORD SHARPE OF EPSOM

- 99 Schedule 14, page 180, line 7, at end insert “foreign activity arrangements or foreign influence”

Member's explanatory statement

This amendment clarifies that the exemption for UK arrangements applies to agreements and arrangements within the meaning of “foreign activity arrangement” or “foreign influence arrangement”.

LORD SHARPE OF EPSOM

- 100 Schedule 14, page 180, line 10, leave out “or a UK agreement”

Member's explanatory statement

This amendment is consequential on Lord Sharpe’s amendment to Schedule 14, page 180, line 15.

LORD SHARPE OF EPSOM

- 101 Schedule 14, page 180, line 15, leave out “or “UK agreement””

Member's explanatory statement

This amendment adjusts the definition of UK arrangements to include agreements.

LORD SHARPE OF EPSOM

102 Schedule 14, page 182, line 12, after “the” insert “foreign influence”

Member's explanatory statement

This amendment clarifies that the exemption for news-related foreign influence arrangements applies to agreements and arrangements within the meaning of “foreign influence arrangement”.

LORD CLEMENT-JONES

103 Schedule 14, page 182, line 30, leave out paragraph 5

Member's explanatory statement

This amendment is to probe the exemption for legal activities from Part 3 of the Bill.

LORD WALLACE OF SALTAIRE

103A Schedule 14, page 183, line 18, at end insert –

“Public health emergencies

- 5A An activity is not a “political influence activity” for the purposes of section 68(1) (meaning of “political influence activity”) if the activity is primarily for the purpose of, or relates to, the combat of, and the mitigation of the effects of, public health emergencies.”

Member's explanatory statement

The Bill currently captures organisations or individuals who may be sharing vital information about the spread of contagious diseases. This probing amendment provides an exemption to allow bodies in this field to share information about public health emergencies.

LORD WALLACE OF SALTAIRE

104 Schedule 14, page 183, line 37, at end insert –

“Higher education activity

- 6A (1) Section 62(2) (requirement to register foreign activity arrangements) does not apply in relation to a foreign activity arrangement to the extent that it is a higher education activity arrangement that is already registered with the Secretary of State or a government department.
- (2) Registration with the Secretary of State or a government department as set out in subsection (1) includes, but is not limited to –
- (a) provisions within the National Security and Investment Act 2022;

- (b) provisions within the Academic Technology Approval Scheme;
 - (c) provisions within the Export Control Act 2002 and the Export Control Order 2008 (S.I. 2008/3231).
- (3) “Higher education activity arrangements” includes, but is not limited to—
- (a) research or teaching undertaken by university staff who are directly supported by foreign state funding, for example through scholarships, stipends, fellowships or direct employment by a specified person as set out in section 63(1);
 - (b) collaborative research projects underpinned by government and Research Council funding;
 - (c) memorandums of understanding, which could include, but are not limited to, commitments to joint education or research ventures, where some activity is to occur in the United Kingdom;
 - (d) consultancy or contract research for a specified person as defined in section 63(1);
 - (e) commercial arrangements.”

Member's explanatory statement

This amendment is intended to prevent unnecessary duplication of reporting and oversight under different Acts.

Clause 77

LORD SHARPE OF EPSOM

105 Clause 77, page 52, line 20, leave out “copying” and insert “the disclosure”

Member's explanatory statement

This amendment clarifies that the power in clause 77(1)(b) relates to the onward disclosure of information provided to the Secretary of State under clause 72 or 73.

Clause 82

LORD MARKS OF HENLEY-ON-THAMES

105A Clause 82, page 55, line 20, at end insert “provided that such evidence or submissions are not merely incidental to the principal issues in the proceedings”

Member's explanatory statement

This amendment restricts the definition of ‘national security proceedings’ to correspond with the ordinary meaning of that phrase, and not merely because some national security-related evidence has been adduced. It also prevents a public body from avoiding accountability by categorising proceedings as ‘national security proceedings’.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 82 stand part of the Bill.

Clause 83

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

106 Clause 83, page 55, line 37, at end insert –

“(ba) the court is satisfied that any damages awarded to the claimant in those proceedings are likely to be used for the purposes of terrorism,”

Member's explanatory statement

This amendment is recommended by the JCHR and would remove the duty on the court to consider reducing damages in Clause 83, unless the court considered the damages were likely to be used for the purposes of terrorism.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

107 Clause 83, page 56, leave out lines 8 to 23

Member's explanatory statement

This amendment and related amendments from Lord Wallace of Tankerness to Clause 83 are intended to probe the implications of these provisions for claimants who have not committed terrorist offences.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

108 Clause 83, page 56, line 14, leave out paragraph (a)

Member's explanatory statement

This amendment and related amendments from Lord Wallace of Tankerness to Clause 83 are intended to probe the implications of these provisions for claimants who have not committed terrorist offences.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

109 Clause 83, page 56, line 17, leave out paragraph (b)

Member's explanatory statement

This amendment and related amendments from Lord Wallace of Tankerness to Clause 83 are intended to probe the implications of these provisions for claimants who have not committed terrorist offences.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

110 Clause 83, page 56, line 19, leave out paragraph (c)

Member's explanatory statement

This amendment and related amendments from Lord Wallace of Tankerness to Clause 83 are intended to probe the implications of these provisions for claimants who have not committed terrorist offences.

BARONESS LUDFORD
LORD PANNICK

111 Clause 83, page 56, line 30, at end insert “or which it would award under section 8 of that Act had the claim been brought under it”

Member's explanatory statement

This amendment would prevent the reduction of damages in claims that could have been brought as a human rights claim under the HRA 1998 but were in fact brought on other grounds.

LORD MARKS OF HENLEY-ON-THAMES

111A Clause 83, page 56, line 30, at end insert “, or

- (b) where such a reduction would be inconsistent with granting the claimant appropriate access to justice.”

Member's explanatory statement

This amendment ensures damages may not be reduced where it would be inconsistent with granting the claimant appropriate access to justice.

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 83 stand part of the Bill.

Clause 84

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 84 stand part of the Bill.

Clause 85

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 85 stand part of the Bill.

Clause 86

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 86 stand part of the Bill.

Schedule 15

LORD WALLACE OF TANKERNESS
LORD PURVIS OF TWEED
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Schedule 15 be the 15th Schedule to the Bill.

Clause 87

BARONESS LUDFORD
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 87 stand part of the Bill.

Member's explanatory statement

This amendment is recommended by the JCHR and would remove the proposed limits on access to legal aid for persons with a conviction for a terrorism offence and the consequential power to make information requests related to those limits.

Clause 88

BARONESS LUDFORD
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 88 stand part of the Bill.

Member's explanatory statement

This amendment is recommended by the JCHR and would remove the proposed limits on access to legal aid for persons with a conviction for a terrorism offence and the consequential power to make information requests related to those limits.

After Clause 89

LORD PURVIS OF TWEED
BARONESS SMITH OF NEWNHAM

112 After Clause 89, insert the following new Clause—

“Report on actions taken in response to the ISC report on Russia

Within six months of the passing of this Act, the Secretary of State must lay before Parliament a report on the effect of the action taken by the Government in response to the recommendations of the report of the Intelligence and Security Committee of Parliament on Russia (HC 632 of Session 2019–21).”

Member's explanatory statement

This new Clause requires the Secretary of State to report to Parliament on the actions the Government has taken in response to the report of the Intelligence and Security Committee on Russia.

LORD WALLACE OF SALTAIRE

113 After Clause 89, insert the following Clause –

“Home Office review of the Tier 1 (Investor) visa scheme

Within two weeks after the day on which this Act is passed, the Secretary of State must publish any findings of the Home Office review of the Tier 1 (Investor) visa scheme which relate to foreign influence activity.”

Member's explanatory statement

This new Clause would require the Government to publish relevant findings of its review of Tier 1 (investor) visas granted between June 2008 and April 2015 within two weeks of the Bill being passed.

LORD PURVIS OF TWEED
LORD WALLACE OF SALTAIRE

114 After Clause 89, insert the following Clause –

“Ministerial appointments: official advice

- (1) The Cabinet Secretary must publish a memorandum in respect of any ministerial appointments made by the Prime Minister, where advice or concerns were communicated to the Prime Minister by civil servants that the appointment may be counter to the safety or interests of the United Kingdom including because of potential influence from a foreign power.
- (2) A memorandum under this section must set out that advice or concerns were communicated to the Prime Minister by civil servants, and in respect of which ministerial appointments.
- (3) A memorandum under this section may not include details of the advice or concerns, where the Cabinet Secretary considers that inclusion of those details may be prejudicial to the safety or interests of the United Kingdom.”

Member's explanatory statement

This new Clause requires the Cabinet Secretary to publish a memorandum in circumstances where the Prime Minister made a ministerial appointment and where advice was that the appointment may be counter to the safety or interests of the United Kingdom.

LORD PONSONBY OF SHULBREDE

115 After Clause 89, insert the following new Clause –

“Impact assessment of legal aid provisions

Sections 87, 88 and 89 may not come into force until the Secretary of State has published an impact assessment on their implementation.”

Member's explanatory statement

This amendment would ensure an assessment of Clauses 87, 88 and 89 is published before they come into force.

LORD PONSONBY OF SHULBREDE

116 After Clause 89, insert the following new Clause –

“Reporting on disinformation originating from foreign powers

- (1) The Secretary of State must appoint a person or body to review the extent of disinformation originating from foreign powers which presents a threat, or potential threat, to national security.
- (2) A review under subsection (1) must include an assessment of the extent of foreign interference in elections.
- (3) A review under subsection (1) may include –
 - (a) examining the number and scale of offences committed, and estimating the number and scale of instances where an offence is suspected to have been committed, under –
 - (i) section 13, where Condition C is met, and
 - (ii) section 14, and
 - (b) any other matters the person or body considers relevant to the matters mentioned in subsections (1) and (2).
- (4) The person or body appointed under subsection (1) may be the Intelligence and Security Committee of Parliament, or another person or body the Secretary of State considers appropriate.
- (5) A review must be carried out under this section in respect of –
 - (a) the 12-month period beginning with the day on which section 13 comes into force, and
 - (b) each subsequent 12-month period.
- (6) Each review under this section must be completed as soon as reasonably practicable after the period to which it relates.
- (7) The person or body must send to the Secretary of State a report on the outcome of each review carried out under this section as soon as reasonably practicable after completion of the review.
- (8) On receiving a report under subsection (7), the Secretary of State must lay a copy of it before Parliament.
- (9) The Secretary of State may pay to the person or body –
 - (a) expenses incurred in carrying out the functions of the reviewer under this section, and
 - (b) such allowances as the Secretary of State determines, except where financial provision is already made to the person or body for the discharge of the

person or body's functions, of which functions under this section may form part."

Member's explanatory statement

This amendment would establish a review of the extent of disinformation originating from foreign powers.

LORD COAKER

117 After Clause 89, insert the following new Clause –

“Duty to implement recommendations of the ISC report on Russia

The Secretary of State has a duty to implement the recommendations of the report of the Intelligence and Security Committee of Parliament on Russia (HC 632 of Session 2019–21) insofar as they relate to national security.”

Member's explanatory statement

This amendment would ensure the government implements the ISC report on Russia.

LORD PURVIS OF TWEED

118 After Clause 89, insert the following new Clause –

“Reports of the ISC

(1) The Justice and Security Act 2013 is amended as follows.

(2) In section 3 (reports of the ISC) after subsection (1) insert –

“(1A) The ISC may report on the provisions of the National Security Act 2022 insofar as they relate to its functions under section 2.””

Member's explanatory statement

This amendment is intended to probe the remit of the Intelligence and Security Committee in regard to this Bill.

LORD COAKER

119 After Clause 89, insert the following new Clause –

“Assessment of interaction with the Official Secrets Act 1989

The Secretary of State must publish an assessment of how this Act relates to the Official Secrets Act 1989.”

Member's explanatory statement

This amendment intends to probe to what extent the Bill furthers the government's objective to update the Official Secrets Act 1989.

BARONESS KRAMER

120 After Clause 89, insert the following new Clause –

“Establishment of the Office of the National Security Whistleblower

- (1) Within one year of the passing of this Act, the Secretary of State must by regulations establish an independent body called the Office of the National Security Whistleblower (“the Office”).
- (2) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) The principal duty of the Office is to protect any person making a protected disclosure (a “whistleblower”) to relevant bodies or individuals on issues of national security.
- (4) The functions of the Office are –
 - (a) to set and monitor minimum standards for –
 - (i) whistleblowing policies, procedures and reporting structures including confidentiality and anonymity for the whistleblower, and
 - (ii) investigating reported offences,
 - (b) to assess disclosures and to process those that are not in its determination frivolous, malicious or vexatious, and
 - (c) to order redress for any detriment to the whistleblower caused by their protected disclosure, including through the payment of compensation.
- (5) A “protected disclosure” means any disclosure of information relating to the commission of an offence under this Act which is made in the public interest to persons specified as relevant bodies or individuals.
- (6) “Relevant bodies or individuals” are –
 - (a) the Office;
 - (b) where the disclosure is made by an employee of a regulated person, the relevant regulator;
 - (c) a public authority;
 - (d) an employer.
- (7) The Secretary of State must within one year of this Act coming into force lay a report before Parliament which reviews the effectiveness and functions of the Office.”

LORD COAKER

120A After Clause 89, insert the following new Clause—

“Duty to update the Intelligence and Security Committee of Parliament's memorandum of understanding

- (1) The Prime Minister must ensure that the memorandum of understanding between the Prime Minister and the Intelligence and Security Committee of Parliament (the “ISC”) under section 2 of the Justice and Security Act 2013 (the “MoU”) is revised to reflect any changes to the intelligence or security activities of His Majesty’s Government as a result of this Act.
- (2) Any revisions to the MoU under subsection (1) must be agreed between the Prime Minister and the ISC in accordance with the process set out in section 2 of the Justice and Security Act 2013.
- (3) Any engagement between the Prime Minister and the ISC relating to revisions to the MoU under subsection (1) must commence within the 6-month period beginning with the day on which this Act is passed.”

Member's explanatory statement

This amendment ensures that the ISC’s Memorandum of Understanding is updated to reflect this Act.

LORD COAKER

120B After Clause 89, insert the following new Clause—

“Public interest defence

Within 90 days of this Act being passed, a Minister of the Crown must publish an assessment of the potential merits of introducing further legislation for the purposes of providing a public interest defence in relation to offences under this Act.”

Member's explanatory statement

This amendment means that a Minister must publish an assessment of the potential merits of introducing a public interest defence.

Clause 92

LORD SHARPE OF EPSOM

121 Clause 92, page 63, line 11, after “63” insert “specifying a foreign power, or a person other than a foreign power, who is not specified immediately before the regulations are made”

Member's explanatory statement

This amendment provides that regulations under clause 63 attract the affirmative procedure only if they specify a foreign power or other person not already specified. Regulations revoking a specification will be subject to the negative procedure.

LORD SHARPE OF EPSOM

122 Clause 92, page 63, line 12, leave out paragraph (b)

Member's explanatory statement

This amendment is consequential on Lord Sharpe's amendment to clause 68, page 46, line 30, which omits the regulation making power in clause 68.

LORD SHARPE OF EPSOM

123 Clause 92, page 63, line 17, at end insert –

“(fa) regulations under paragraph 27 of Schedule (*Public officials*);”

Member's explanatory statement

This amendment provides that regulations under the new Schedule inserted by Lord Sharpe after Schedule 13 are subject to the affirmative procedure.

Clause 95

LORD SHARPE OF EPSOM

124 Clause 95, page 64, line 13, at end insert –

“(1A) His Majesty may by Order in Council provide for any provision of this Act other than section 20 to extend (with or without modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia.

(1B) An Order in Council under subsection (1A) may make consequential, supplementary, incidental, transitional or saving provision.”

Member's explanatory statement

This amendment confers power to extend the Bill to the Sovereign Base Areas of Akrotiri and Dhekelia. Clause 20 is excluded from the power because clause 20 is extended to the Sovereign Base Areas by clause 95(1)(b).

National Security Bill

THIRD MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

9 January 2023

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