

# **Economic Activity of Public Bodies (Overseas Matters) Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Levelling Up, Housing and Communities, have been ordered to be published as HL Bill 38—EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Baroness Neville-Rolfe has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Economic Activity of Public Bodies (Overseas Matters) Bill are compatible with the Convention rights.



# Economic Activity of Public Bodies (Overseas Matters) Bill

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[AS BROUGHT FROM THE COMMONS]

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## [AS BROUGHT FROM THE COMMONS]

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**B I L L**

TO

Make provision to prevent public bodies from being influenced by political or moral disapproval of foreign states when taking certain economic decisions, subject to certain exceptions; and for connected purposes.

**B**E IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Main provision***1 Disapproval of foreign state conduct prohibited**

- (1) Subsection (2) has effect in relation to a decision to which this section is applied by a subsequent provision of this Act.
- (2) The decision-maker must not have regard to a territorial consideration in a way that would cause a reasonable observer of the decision-making process to conclude that the decision was influenced by political or moral disapproval of foreign state conduct. 5
- (3) A “territorial consideration” is a consideration that relates specifically or mainly to a particular foreign territory. 10
- (4) “Foreign state conduct” means the conduct or policy of a foreign state authority.
- (5) “Foreign territory” means a country or territory outside the United Kingdom.
- (6) “Foreign state authority” means the government of, or any other public authority in, a foreign territory. 15
- (7) The disapproval referred to in subsection (2) is disapproval on the part of—
  - (a) the decision-maker, or
  - (b) any person seeking to persuade the decision-maker to act in a certain way;and those references to the decision-maker include, in a case where the decision-maker is not an individual, the individuals who in fact make the decision for the decision-maker. 20
- (8) This section is subject to section 3.

## **2 Application to procurement and investment decisions**

- (1) Section 1 applies to a procurement decision or an investment decision in relation to which the decision-maker is subject to section 6 of the Human Rights Act 1998 (acts of public authorities).
- (2) A “procurement decision” is a decision about a contract for the supply of goods, services or works to the decision-maker. 5
- (3) An “investment decision” is a decision about—
  - (a) the acquisition by the decision-maker of an asset wholly or principally for purposes of investment, or
  - (b) the management, retention or disposal by the decision-maker of an asset held wholly or principally for such purposes. 10
- (4) In subsection (3), “asset” includes any property or rights capable of being held for purposes of investment.
- (5) This section is subject to section 3.

## **3 Exceptions**

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- (1) The Schedule makes exceptions from the application of section 1.
- (2) The Secretary of State or the Minister for the Cabinet Office may, by regulations, amend the Schedule so as to—
  - (a) add a description of decision to Part 1 of the Schedule (exceptions for certain bodies and functions), 20
  - (b) add a description of consideration to Part 2 of the Schedule (exceptions for certain types of consideration), or
  - (c) amend or remove a description of decision or consideration added under previous regulations under this subsection.
- (3) Regulations under subsection (2)(a) may not relate to a decision of— 25
  - (a) a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers,
  - (d) a Northern Ireland department, 30
  - (e) an authority listed in Schedule 2 to the Local Government Act 1988 (public authorities subject to the contracting restrictions in section 17 of that Act),
  - (f) a district council in Northern Ireland, or
  - (g) the scheme manager of a funded local government scheme (within the meaning of section 12). 35
- (4) It is irrelevant for the purposes of Part 2 of the Schedule (unless that Part provides otherwise) whether a consideration relates to matters arising before or after the coming into force of this Act or of regulations under subsection (2)(b) or (c). 40

- (5) The Secretary of State or the Minister for the Cabinet Office may, by regulations, specify a country or territory as one in relation to which section 1 does not apply.
- (6) The effect of regulations under subsection (5) is that section 1 is to be read as if the country or territory specified in the regulations were not a “foreign territory” for the purposes of section 1(6). 5
- (7) Regulations under subsection (5) may not specify, and regulations under subsection (2) may not result in a description of decision or consideration relating specifically or mainly to— 10
- (a) Israel,
  - (b) the Occupied Palestinian Territories, or
  - (c) the Occupied Golan Heights.

#### 4 Related prohibition on statements

- (1) A person who is subject to section 1 must not publish a statement indicating (in whatever terms)— 15
- (a) that the person intends to act in a way that would contravene section 1, or
  - (b) that the person would intend to act in such a way were it lawful to do so.
- (2) A person is “subject to section 1” if section 1 is capable of applying to a decision made by the person. 20
- (3) This section does not apply to a statement by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) in connection with a proposed exercise of the powers in section 3.

*Enforcement* 25

#### 5 Legal proceedings

- (1) Subsection (2) applies in relation to a decision or statement if the decision, or the subject-matter of the statement, is amenable to judicial review.
- (2) The applicable section is enforceable on an application for judicial review (irrespective of the other means of enforcement provided by this Act). 30
- (3) Subsection (4) applies in relation to a decision or statement if the decision, or the subject-matter of the statement, is not amenable to judicial review.
- (4) The High Court— 35
- (a) if satisfied that the decision-maker has contravened the applicable section, may make any order that the court thinks appropriate by way of relief;
  - (b) if satisfied that the decision-maker is likely to contravene the applicable section, may make any order that the court thinks appropriate for the purpose of preventing such a contravention;
  - (c) in either case, may make a declaration. 40

- (5) The powers of the court under subsection (4) may be exercised only on application by a person who has been permitted by the court to make the application.
- (6) Such permission may be given only if the court considers that the proposed applicant has sufficient interest in the subject-matter of the proposed application. 5
- (7) In exercising its powers under subsections (4) to (6), the court is to have regard to the principles that it would apply in analogous proceedings on an application for judicial review.
- (8) In this section, “the applicable section” means – 10  
 (a) section 1, in the case of a decision;  
 (b) section 4, in the case of a statement.
- (9) In its application to Scotland, this section is to be read as if –  
 (a) in subsections (1) and (3), for “amenable to judicial review” (in each place it occurs) there were substituted “subject to the supervisory jurisdiction of the Court of Session”; 15  
 (b) in subsections (2) and (7), for “for judicial review” there were substituted “to the supervisory jurisdiction of the Court of Session”;  
 (c) in subsection (4) –  
 (i) for “High Court” there were substituted “Court of Session”; 20  
 (ii) for “declaration” there were substituted “declarator”.

## **6 Enforcement authorities**

- (1) This section determines who is the “enforcement authority” for the purposes of this Act in relation to a decision or statement.
- (2) The enforcement authority is the Secretary of State or the Treasury, except as provided below. 25
- (3) There is no enforcement authority in relation to a decision or statement made by a Minister of the Crown.
- (4) In relation to a decision or statement made by, or for the purposes of, a registered English higher education provider, the enforcement authority is the Office for Students. 30
- (5) In this section –  
 “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;  
 “registered English higher education provider” means an institution registered in the register kept under section 3 of the Higher Education and Research Act 2017. 35
- (6) The Secretary of State or the Minister for the Cabinet Office may, by regulations, amend this section so as to change the enforcement authority (including by providing for there to be or not to be one) in relation to a particular description of decision or statement. 40



## 7 Information notices

- (1) Subsection (2) applies if it appears to the enforcement authority that the conditions in subsection (3) or (4) are satisfied.
- (2) The enforcement authority may give the person in respect of whom the conditions are satisfied a written notice (an “information notice”) requiring that person to provide the authority with information. 5
- (3) The conditions in this subsection are that—
  - (a) a person has made, or is about to make, a decision to which section 1 applies (or would apply), and
  - (b) the information is likely to be useful to the enforcement authority in assessing whether or in what circumstances the person, in making that decision, has contravened, or is likely to contravene, section 1. 10
- (4) The conditions in this subsection are that—
  - (a) a person who is subject to section 1 (see section 4(2)) has published, or is about to publish, a statement, and 15
  - (b) the information is likely to be useful to the enforcement authority in assessing whether or in what circumstances the person, in publishing that statement, has contravened, or is likely to contravene, section 4.
- (5) An information notice must state the time by which, and the form and manner in which, the information must be provided. 20
- (6) The duty to comply with an information notice is enforceable—
  - (a) on an application for judicial review, or
  - (b) if the recipient of the notice is not amenable to judicial review in respect of the subject-matter of the notice, by order of the High Court on application by the enforcement authority. 25
- (7) In its application to Scotland, subsection (6) is to be read as if—
  - (a) for “for judicial review” there were substituted “to the supervisory jurisdiction of the Court of Session”;
  - (b) for “amenable to judicial review” there were substituted “subject to the supervisory jurisdiction of the Court of Session”;
  - (c) for “High Court” there were substituted “Court of Session”. 30
- (8) A person providing information in compliance with an information notice does not breach—
  - (a) any obligation of confidence owed by the person in respect of the information, or 35
  - (b) any other restriction on the disclosure of information (however imposed).
- (9) An information notice does not require the provision of information where its provision would contravene the data protection legislation (but in determining whether it would do so, the provisions of this section are to be taken into account). 40
- (10) In this section—

“the data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018;

“information” includes any document or record.

## **8 Compliance notices**

- (1) Subsection (2) applies if the enforcement authority is satisfied that a person has contravened, or is likely to contravene, section 1 or section 4. 5
- (2) The enforcement authority may give the person a written notice (a “compliance notice”) setting out—
  - (a) its reasons for being satisfied as mentioned in subsection (1), and
  - (b) the actions that it considers the person should take, or refrain from taking, in order to avoid contravening or further contravening section 1 or (as the case may be) section 4. 10
- (3) The notice must also explain that failing to adhere to the notice may make the person liable to a monetary penalty under section 9.
- (4) Before giving a person a compliance notice, the enforcement authority must inform the person of the proposed notice and give the person an opportunity to make representations. 15

## **9 Monetary penalties: power**

- (1) Subsection (3) applies if the enforcement authority is satisfied that—
  - (a) a person has contravened section 1 or section 4, 20
  - (b) the person was given a compliance notice before the contravention, and
  - (c) the contravention would have been avoided had the person done as advised in the compliance notice.
- (2) Subsection (3) also applies if the enforcement authority is satisfied that a person to whom an information notice has been given has failed to comply with the notice. 25
- (3) The enforcement authority may give the person a written notice setting out its intention to impose a monetary penalty on the person.
- (4) A notice under subsection (3) must set out— 30
  - (a) the enforcement authority’s reasons for being satisfied as mentioned in subsection (1) or (2),
  - (b) the amount of the proposed penalty (which is not to exceed the maximum prescribed under section 10(1)),
  - (c) the enforcement authority’s reasons for proposing to impose the penalty (and for the amount proposed), 35
  - (d) the period during which the person may make representations about the proposed penalty, and
  - (e) the way in which those representations may be made.

- (5) The period specified under subsection (4)(d) must be at least 28 days beginning with the day on which the notice is received.
- (6) Subsection (7) applies if –
- (a) the enforcement authority has given a person a notice under subsection (3), 5
  - (b) the period specified in the notice under subsection (4)(d) has elapsed, and
  - (c) the authority has considered any representations made by the person during that period.
- (7) The enforcement authority may, by written notice, impose a monetary penalty on the person. 10
- (8) A notice under subsection (7) must set out –
- (a) the amount of the penalty (which is not to exceed the maximum prescribed under section 10(1)),
  - (b) the enforcement authority’s reasons for imposing the penalty (and for the amount of it), and 15
  - (c) the time by which and manner in which the penalty must be paid.

## 10 Monetary penalties: further provision

- (1) The Secretary of State must, by regulations, prescribe a maximum penalty for the purposes of section 9. 20
- (2) The Secretary of State may, by regulations, make provision about matters to which the enforcement authority must, or must not, have regard in exercising its powers under section 9.
- (3) If a penalty imposed under section 9 is not paid in the required manner by the required time – 25
- (a) the penalty (or the unpaid part of it) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838;
  - (b) the enforcement authority may recover the penalty (or the unpaid part of it), with the interest, as a civil debt.
- (4) An enforcement authority other than the Secretary of State or the Treasury must pay any sum received by it as a monetary penalty under section 9 (or as interest on such a penalty) to the Secretary of State. 30

## 11 Variation and revocation of enforcement notices

The enforcement authority may by further notice vary or revoke a notice given under section 7, 8 or 9. 35

*Local government pension schemes***12 Application of prohibitions**

- (1) Section 1 applies in relation to a fund investment decision made by the scheme manager of a funded local government scheme.
- (2) “Fund investment decision” means a decision about the acquisition, management, retention or disposal of an asset of a pension fund. 5
- (3) “Funded local government scheme” means a local government scheme for which a pension fund is maintained.
- (4) “Local government scheme” means a scheme under— 10  
 (a) section 1 of the Public Service Pensions Act 2013, or  
 (b) section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (c. 2 (N.I.)),  
 for local government workers (within the meaning of the Act in question).
- (5) Scheme regulations do not have effect in relation to a funded local government scheme to the extent that they include or authorise anything that is inconsistent with section 1 or 4. 15
- (6) In this section—  
 “asset” includes any property or rights capable of being held for purposes of investment;  
 “scheme manager” and “scheme regulations”, in relation to a scheme, 20  
 have the same meaning as in the Act under which the scheme is established.

**13 Enforcement powers**

- (1) There is no enforcement authority for the purposes of this Act in relation to a decision within section 12(1) (but see the provisions amended by the following subsections). 25
- (2) In section 13(7) of the Pensions Act 2004 (pensions legislation subject to improvement notices by the Pensions Regulator), after paragraph (i) insert—  
 “(j) section 1 or 4 of the Economic Activity of Public Bodies (Overseas Matters) Act 2024.” 30
- (3) In Article 9(7) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (pensions legislation subject to improvement notices by the Pensions Regulator)—  
 (a) omit “or” at the end of sub-paragraphs (g) and (h);  
 (b) at the end of sub-paragraph (i) insert “, or 35  
 (j) section 1 or 4 of the Economic Activity of Public Bodies (Overseas Matters) Act 2024.”

*Supplemental and general provision***14 Relationship with procurement legislation**

- (1) The powers conferred by section 19(3)(b) and 20(5)(c) and (d) of the Procurement Act 2023 (disregarding or excluding tenders from overseas non-treaty-state suppliers) are subject to section 1. 5
- (2) The powers conferred by that Act in relation to excludable suppliers are also subject to section 1 in a case where the exclusion ground relied on is that set out in paragraph 11 of Schedule 7 to that Act (professional misconduct).
- (3) In relation to that exclusion ground, section 1 applies to a decision of a Minister of the Crown about the making or removal of an entry in the list kept for the purposes of section 62 of that Act (the debarment list). 10
- (4) Section 1 does not otherwise prevent anything from being done for the purpose of giving effect to the provisions of that Act about excluded and excludable suppliers.
- (5) For the meaning of “excluded supplier” and “excludable supplier”, see section 57 of that Act. 15
- (6) The Secretary of State may by regulations make provision in relation to—
- (a) any of the legislation repealed, revoked or modified by section 119 of the Procurement Act 2023 (repeals etc) (so far as that legislation continues to have effect after this Act comes into force), or 20
  - (b) the Procurement Reform (Scotland) Act 2014 (asp 12) or any regulations under that Act,
- for any purposes similar to those of the preceding subsections of this section or paragraph 2 of the Schedule.

**15 Related changes to local government contracting restrictions**

- (1) In section 17(5) of the Local Government Act 1988 (non-commercial matters excluded from contracting decisions: England and Wales and Scotland), omit paragraph (e). 25
- (2) In Article 19(4) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (S.I. 1992/810 (N.I. 6)) (non-commercial matters excluded from contracting decisions: Northern Ireland), omit sub-paragraph (e). 30
- (3) The Secretary of State may, for the purpose set out in subsection (4), by regulations provide for certain matters to be treated as falling outside—
- (a) section 17(5)(f) of the Local Government Act 1988 (political, industrial or sectarian affiliations), or 35
  - (b) Article 19(4)(f) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (S.I. 1992/810 (N.I. 6)) (political, industrial or sectarian affiliations).
- (4) The purpose is that of securing that decision-making validated by regulations under section 3 is not unlawful by virtue of the section or Article referred to in subsection (3). 40

- (5) For the purposes of subsection (4), decision-making is “validated” by regulations under section 3 if the result of the regulations is that the decision-making is not unlawful by virtue of section 1.

## **16 Regulations**

- (1) Regulations under this Act are to be made by statutory instrument. 5
- (2) A statutory instrument containing (whether alone or with other provision) regulations under any provision of this Act except section 17 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) Subsection (2) does not apply to an instrument containing only regulations under section 3(2) or (5) if the instrument contains a statement that the person making the instrument is of the opinion that, by reason of urgency, it is not appropriate for subsection (2) to apply. 10
- (4) An instrument containing such a statement –
- (a) must be laid before Parliament after being made, and 15
  - (b) ceases to have effect at the end of the period of 28 days beginning with the day on which it is made unless, during that period, it is approved by a resolution of each House of Parliament.
- (5) In calculating that period, no account is to be taken of any time during which – 20
- (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4)(b), that does not –
- (a) affect the validity of anything previously done in reliance on the regulations, or 25
  - (b) prevent the making of new regulations.
- (7) A power to make regulations conferred by this Act (except section 17) includes the power to make –
- (a) consequential, incidental, supplementary, transitional or saving provision; 30
  - (b) different provision for different purposes.
- (8) In the case of regulations under section 6(6), the power to make consequential, incidental or supplementary provision includes the power to amend any Act of Parliament, Act of the Scottish Parliament, Act or Measure of Senedd Cymru or Northern Ireland legislation, whenever passed or made. 35

## **17 General provision**

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject to subsection (2).

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- (2) The amendments made by sections 13(2) and (3) and 15(1) and (2) have the same extent as the provisions amended.
- (3) The following provisions of this Act come into force on the day on which this Act is passed –
- (a) section 3(2), (3), (5) and (7); 5
  - (b) section 6(6);
  - (c) section 10(1) and (2);
  - (d) section 14(6);
  - (e) section 15(3) to (5);
  - (g) section 16; 10
  - (f) this section.
- (4) The rest of this Act comes into force on such day as the Secretary of State may appoint by regulations.
- (5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act. 15
- (6) Different days may be appointed under subsection (4), and different provision may be made under subsection (5) –
- (a) for different purposes;
  - (b) in relation to England, Wales, Scotland and Northern Ireland.
- (7) This Act binds the Crown. 20
- (8) This Act may be cited as the Economic Activity of Public Bodies (Overseas Matters) Act 2024.

SCHEDULE

Section 3(1)

EXCEPTIONS

**PART 1**

EXCEPTIONS FOR CERTAIN BODIES AND FUNCTIONS

*Security and intelligence services* 5

- 1 Section 1 does not apply to a decision of a person acting for the purposes of—
- (a) the Security Service,
  - (b) the Secret Intelligence Service, or
  - (c) the Government Communications Headquarters. 10

*Defence contracts*

- 2 Section 1 does not apply to a decision relating to a contract (or contemplated contract) that is (or would be) a defence authority contract within the meaning of the Procurement Act 2023 (see section 7(4) of that Act).

*Pension schemes* 15

- 3 (1) Section 1 does not apply by virtue of section 2 to a decision made by the decision-maker in a capacity as the manager or trustee of a pension scheme (but see section 12).
- (2) In this paragraph, “pension scheme” means a scheme within any of the definitions in section 1 of the Pension Schemes Act 1993 or section 1 of the Pension Schemes (Northern Ireland) Act 1993. 20

**PART 2**

EXCEPTIONS FOR CERTAIN TYPES OF CONSIDERATION

*Financial and practical matters*

- 4 Section 1 does not prevent regard to a consideration so far as the decision-maker reasonably considers it relevant to the financial value or practical utility of—
- (a) the goods, services, works or asset in question, or
  - (b) arrangements under contemplation with respect to those goods, services or works or that asset. 30

*National security*

- 5 Section 1 does not prevent regard to a consideration so far as the decision-maker reasonably considers it relevant to the national security of the United Kingdom.



*International law*

- 6 Section 1 does not prevent regard to a consideration so far as the decision-maker reasonably considers it relevant to whether the decision (or anything done further to it) would place the United Kingdom in breach of its obligations under international law. 5

*Bribery*

- 7 (1) Section 1 does not prevent regard to a consideration so far as it relates to bribery.
- (2) That includes a consideration related to the possibility of bribery having taken place or taking place in the future. 10
- (3) “Bribery” means conduct that amounts to, or would if carried out in any part of the United Kingdom amount to, a relevant bribery offence.
- (4) A “relevant bribery offence” means –
- (a) an offence under section 113 of the Representation of the People Act 1983 (bribery of electors); 15
  - (b) an offence under section 1, 2 or 6 of the Bribery Act 2010 (bribery offences);
  - (c) in relation to an offence within either of the preceding paragraphs, any of the following offences –
- (i) aiding, abetting, counselling or procuring the commission of the offence; 20
  - (ii) in Scotland, being art and part in the commission of the offence;
  - (iii) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence; 25
  - (iv) inciting a person to commit the offence;
  - (v) attempting or conspiring to commit the offence.

*Labour-related misconduct*

- 8 (1) Section 1 does not prevent regard to a consideration so far as it relates to labour-related misconduct. 30
- (2) That includes a consideration related to the possibility of labour-related misconduct having taken place or taking place in the future.
- (3) “Labour-related misconduct” means –
- (a) conduct that amounts to, or would if carried out in any part of the United Kingdom amount to, a relevant labour offence, or 35
  - (b) conduct that could result in, or could if carried out in any part of the United Kingdom result in, the making of a relevant labour misconduct order.
- (4) A “relevant labour offence” means –

- (a) an offence under the Employment Agencies Act 1973 (offences relating to employment agencies) other than an offence under section 9(4)(b) of that Act;
  - (b) an offence under the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (S.I. 1981/839 (N.I. 20)) (offences relating to employment agencies) other than an offence under Article 7B(11) of that Order; 5
  - (c) an offence under section 31(1) of the National Minimum Wage Act 1998 (refusal or wilful neglect to pay the national minimum wage);
  - (d) an offence under the Gangmasters (Licensing) Act 2004 (offences relating to gangmasters); 10
  - (e) an offence under section 1, 2, 4 or 30 of the Modern Slavery Act 2015 (slavery and human trafficking offences);
  - (f) an offence under section 1, 4 or 32 of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12) (slavery and human trafficking offences); 15
  - (g) an offence under section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)), or paragraph 16 of Schedule 3 to that Act (slavery and human trafficking offences); 20
  - (h) an offence under section 27 of the Immigration Act 2016 (failure to comply with labour market enforcement order);
  - (i) in relation to an offence within any of the preceding paragraphs, any of the following offences –
    - (i) aiding, abetting, counselling or procuring the commission of the offence; 25
    - (ii) in Scotland, being art and part in the commission of the offence;
    - (iii) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence; 30
    - (iv) inciting a person to commit the offence;
    - (v) attempting or conspiring to commit the offence.
- (5) A “relevant labour misconduct order” means –
- (a) a slavery and trafficking prevention order, an interim slavery and trafficking prevention order, a slavery and trafficking risk order or an interim slavery and trafficking risk order under Part 2 of the Modern Slavery Act 2015; 35
  - (b) a trafficking and exploitation prevention order, an interim trafficking and exploitation prevention order, a trafficking and exploitation risk order or an interim trafficking and exploitation risk order under Part 4 of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12); 40
  - (c) a slavery and trafficking prevention order or an interim slavery and trafficking prevention order under Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)); 45

- (d) a labour market enforcement order under section 18 of the Immigration Act 2016.

*Competition law infringements*

- 9 (1) Section 1 does not prevent regard to a consideration so far as it relates to a competition law infringement. 5
- (2) That includes a consideration related to the possibility of a competition law infringement having taken place or taking place in the future.
- (3) “Competition law infringement” means conduct that amounts to—
  - (a) an infringement of the Chapter I prohibition, within the meaning given by section 2 of the Competition Act 1998 (anti-competitive agreements), 10
  - (b) an infringement of the Chapter II prohibition, within the meaning given by section 18 of that Act (abuse of dominant position),
  - (c) an infringement of any substantially similar prohibition under the law of a country or territory outside the United Kingdom, 15
  - (d) an offence under section 188 of the Enterprise Act 2002 (cartel offence), or
  - (e) a substantially similar offence under the law of a country or territory outside the United Kingdom.

*Environmental misconduct* 20

- 10 (1) Section 1 does not prevent regard to a consideration so far as it relates to environmental misconduct.
- (2) That includes a consideration related to the possibility of environmental misconduct having taken place or taking place in the future.
- (3) “Environmental misconduct” means conduct that— 25
  - (a) amounts to an offence, whether under the law of a part of the United Kingdom or any other country or territory, and
  - (b) caused, or had the potential to cause, significant harm to the environment, including the life and health of plants and animals.

# Economic Activity of Public Bodies (Overseas Matters) Bill

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[AS BROUGHT FROM THE COMMONS]

A

## B I L L

TO

Make provision to prevent public bodies from being influenced by political or moral disapproval of foreign states when taking certain economic decisions, subject to certain exceptions; and for connected purposes.

*Brought from the Commons on 11th January 2024*

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