

Research Briefing

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Procurement Bill: Progress of the Bill



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Summary

[The Procurement Bill 2022-23](#) (HL Bill 4) was first introduced in the House of Lords on 11 May 2022 and completed its Lords stages on 13 December 2022.

The Bill was presented in the House of Commons on 14 December and had its second reading on 9 January 2023. Its committee stage in the Commons took nine sittings, ending on 21 February 2023. This briefing has been prepared ahead of the remaining stages, scheduled for 13 June 2023.

The purpose of the Bill

Procurement rules regulate how public authorities purchase goods, services and public works, such as building schools or roads, from the private sector. About a third of public sector spending goes towards public procurement.

As the UK has left the European Union, the Government wants to reform UK procurement rules which are based on EU law. It says the reform will make procurement [simpler, faster, more transparent and less bureaucratic](#).

The Government says this would create more opportunities for innovation and support new businesses, including small and local companies, wishing to enter the market and deliver public contracts.

Second reading

In the Commons second reading debate, Jeremy Quin, Minister for the Cabinet Office and Paymaster General, said the Bill would fundamentally improve the UK's public procurement regime. He said it would create "[a simpler, more flexible commercial system that better meets our country's needs](#)". By delivering value for money, he said the Bill would require public sector contracting authorities to give greater weight to bids that support wider public benefit such as enhancing skills, innovation, and environmental protection. He said the Bill would make it easier for small and medium-sized enterprises (SMEs) to become government suppliers.

The Minister said the Bill would give contracting authorities more powers than under the EU regime, enabling them to bar companies from procurement for misconduct or illegal activities. The Bill would also introduce procedures to address conflicts of interest.

Opposition parties generally welcomed the reforms but said the Bill fell short in various aspects, such as transparency, addressing potential conflict of interest and support for SMEs.

The Labour Party said the reform was “[an opportunity to make, buy and sell more in Britain](#)”. Opposition parties said they were ready to work constructively with the Government and amend the Bill to increase its focus on social value, net zero objectives, and other areas.

MPs from across the Commons noted [national security was becoming a strategic concern in procurement](#). There are concerns about public bodies being increasingly dependent on suppliers that are linked to hostile states, or companies linked to human rights abuses. MPs urged the Government to take a proactive role in investigating such companies and barring those who pose significant risks from taking part in procurement on security grounds. They also called for support to contracting authorities seeking to find out whether a supplier poses a security risk.

Main amendments and issues in committee

The committee stage of the Procurement Bill took place between 31 January and 21 February 2023. There were 39 votes in the committee.

The Government reversed all six amendments made to the Bill in the House of Lords. The Lords amendments would have:

- brought NHS procurement fully in scope of the Bill
- required a minister to consider certain principles before publishing a national procurement policy statement (NPPS)
- included specified strategic priorities in the NPPS
- allowed contracting authorities to exclude suppliers from contract awards for their involvement in activities linked to forced organ harvesting
- mandated that physical surveillance technology which has been delivered by suppliers involved in modern slavery, genocide or crimes against humanity be removed.

The Government argued amendments on strategic priorities would have taken away the flexibility a government needs to adjust them over time. While supporting the need to tackle the issues of human rights abuses in the supply chain, the Government argued these amendments would increase burden to contracting authorities and suppliers. It took the view that the Bill contained sufficient safeguards to address such abuses.

The Government made further amendments, many of which clarify the Bill's provisions or are consequential to other amendments. These include:

- clarifying the process for suppliers to appeal against their exclusion from procurement (debarment)
- setting parameters around the treatment of tenders offering an abnormally low price for a good or a service
- provisions regarding procurement-related international trade disputes and remedies available to suppliers from the UK and countries with which the UK has a trade agreement
- addressing concerns around cross-border procurement within the UK.

All but three government amendments passed without a vote.

Opposition MPs pressed for a vote on over 30 opposition amendments, of which none were successful.

The main themes debated in the committee included commitment to social value and net zero objectives, buying locally and supporting small businesses, national security concerns when purchasing goods or services from suppliers linked to hostile states, preventing conflicts of interest and devolution issues.

Devolution aspects

The Bill would apply to procurement by devolved authorities in Wales and Northern Ireland. Scotland, however, would maintain its own legal framework, while the Bill would provide for arrangements covering joint and cross-border procurement with Scottish contracting authorities.

The UK Government has sought legislative consent from the devolved legislatures for this Bill.

The [Scottish Government did not recommend consent](#) to this bill as introduced. The Welsh Government had indicated its consent would be conditional upon certain amendments. Following discussions with both devolved governments, the UK Government made several amendments in the Public Bill Committee, which would clarify and limit its power to make certain regulations regarding devolved procurement.

[The Scottish Parliament gave its consent to the Bill on 16 March 2023](#) (PDF).

[The Senedd agreed on 28 March to give partial consent to the Bill](#) (PDF). It withheld consent to provisions in relation to international agreements, as far as these provisions fall within the legislative competence of the Senedd. With this, the Senedd rejected concurrent powers in the bill, so far as the UK

Government ministers could exercise these powers without the consent of the Welsh ministers.

Report stage

For the Bill's report stage scheduled to take place on 13 June, MPs have tabled 68 amendments and 17 new clauses. Of these amendments the Government has tabled 39, mainly focussing on national security issues. Non-government amendments relate to national security, human rights, labour rights, addressing financial and economic misconduct, evaluation of contracts and other issues.

1 Introduction

[Procurement Bill 2022-23](#) (HL Bill 4) was first introduced in the House of Lords on 11 May 2022 and completed its Lords stages on 13 December 2022. The Bill (HL Bill 218) was presented in the House of Commons on 14 December and had its second reading on 9 January 2023. Its committee stage in the Commons took nine sittings, ending on 21 February 2023. The remaining stages are scheduled for 13 June 2023.

1.1 The Bill's purpose

The Procurement Bill would establish a new procurement regime for public contracting authorities buying goods, services and works with a value above certain thresholds, while ensuring the best value for money and a fair process. The Bill would regulate procurement from the planning stage, through the selection of suitable bids, contract award, its management and the end of the contract. The Bill includes provisions on remedies (procedures suppliers can follow if contracting authorities have failed to comply with procurement rules).¹

The Bill aims to simplify procurement by consolidating multiple sets of rules into a single and more transparent procurement regime. It would replace the current EU-law derived procurement framework, while remaining compliant with the UK's obligations under international agreements.

Central to the Bill are the principles of equal treatment and non-discrimination of suppliers. Its objectives are to achieve value for money, and to maximise public benefit, transparency, and integrity.²

The new legislative framework would be binding on central government departments, local government, [arm's length bodies](#) and wider public sector organisations such as education and health authorities in England, Wales and Northern Ireland. A limited number of the Bill's provisions would be binding to Scotland, which will retain its own procurement framework.

¹ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, paras 13, 577-611

² [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 24

Consolidating existing rules

The Procurement Bill consolidates current rules tailored for different types of contracts:

- public contracts, awarded by most public authorities
- utilities contracts by utilities operating in the water, energy and transport sectors. It would not cover private utilities operating on a competitive market.
- concession contracts where public authorities give a supplier the right to exploit the supplied works or services
- defence and security contracts.³

The existing Light Touch Regime for procurement in social, health, education and certain other services would be integrated into the broader provisions but with a series of less onerous requirements for such contracts.⁴

Contracting authorities would be required to assess tenders based on criteria that identify the ‘most advantageous tender’. This means, while seeking to maximise value for money, they would also be required to account for wider public benefit such as an offer’s potential to create jobs, improve supplier resilience or tackle climate change. It would still be possible to reserve smaller contracts, which are not subject to international trade rules, for bids from local suppliers, small and medium-sized enterprises (SMEs) and social enterprises.⁵

Small and medium-sized enterprises

The Procurement Bill aims to stimulate competition and make procurement process more flexible, quicker and cheaper for businesses. According to the Bill’s explanatory notes, it would introduce more opportunities for public sector buyers to negotiate with potential suppliers.⁶

The Bill would introduce several measures aimed at making procurement processes more accessible to SMEs. For example, contracting authorities would have a duty to “have regard” to removing barriers experienced by SMEs. SME’s would be exempt from certain audit and insurance requirements as the conditions of participation in a procurement. Contracting authorities would have a duty to pay suppliers within 30 days and report on payment compliance. This duty would also be passed down the public sector supply

³ The Bill would amend the Defence Reform Act 2014 which regulates single source contracts that are not competed. [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 27

⁴ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 33

⁵ Cabinet Office, ‘[Simpler, more flexible and transparent procurement](#)’, 12 May 2022; [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 26

⁶ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 27

chains: primary contractors would be required to pay their subcontractors promptly.⁷

Transparency and emergency situations

The Bill aims to strengthen transparency and openness by requiring contracting authorities to publish information notices at various stages of procurement: from planning, contract awards, supplier performance, up until contract termination.

The Bill would introduce new arrangements for emergency situations such as the Covid-19 pandemic. Ministers would have power to make regulations allowing contracts to be awarded directly, without competition, when necessary to protect life so that contracting authorities can proceed quickly. Contracting authorities would be required to publish information about these direct awards.⁸

With a new exclusion framework the Bill aims to help public authorities assess the track record of bidders and identify potential risks due to serious misconduct or poor performance during previous contracts. Using a centralised ‘debarment list’ of suppliers, contracting authorities would be able to decide whether a company “must or may be excluded” from making bids.⁹

Other aims and powers

The Government aims to introduce several other innovations, including:

- [a single digital platform](#) for accessing procurement opportunities and data related to contracts, and
- a ‘tell us once’ system for supplier registration that would reduce duplicate work and can be used for all bids¹⁰

UK Government ministers, Welsh ministers and Northern Ireland Departments would have new powers to investigate contracting authority non-compliance with procurement law and make individual recommendations and public guidance to ensure future compliance.¹¹

⁷ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, paras 25, 29

⁸ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 31

⁹ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, para 30; Clause 57 provides for a centralised public debarment list for serious cases of misconduct. Ministers would have power to add a supplier to the debarment list following an investigation.

¹⁰ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, paras 28, 32

¹¹ [Explanatory Notes to the Procurement Bill \[Bill 218\]](#) (PDF), Bill 218-EN, 14 December 2022, paras 34, 105-106

The Cabinet Office has started a learning and development programme to help contracting authorities and suppliers to familiarise with the new procurement framework before it comes into force as expected in early 2024.¹²

1.2 Further information on the Bill

The Commons Library briefing, [Procurement Bill 2022-23](#), published ahead of the second reading on 5 January 2023, contains further details of the Bill's provisions as originally introduced, a summary of Lords amendments and background information.

More information about the Procurement Bill is available on the following websites:

- [Bill pages on the Parliament website](#)
- [Hansard: second reading debate](#) on 9 January 2023
- [Public Bill Committee proceedings](#) (PDF) with details of amendments and new clauses at committee stage in the House of Commons
- Written evidence from outside organisations and individuals submitted for the committee stage is published on [Bill pages on the Parliament website](#)

The clause numbers used in this briefing are the same as those in the [Procurement Bill \[HL\] \(Bill 249\)](#) (PDF), as amended in Public Bill Committee, unless indicated otherwise.

[Annex 2](#) contains an overview of clause number changes during the bill's passage through Parliament.

¹² Government Commercial Function, [Update on the official learning and development offer for contracting authorities](#), accessed 30 May 2023

2 Second reading

[Second reading of the Procurement Bill](#) [HL] 2022-23 took place on 9 January 2023. The Bill was granted second reading without a vote. A [money resolution](#) was also passed, along with a programme motion sending the Bill for consideration in Public Bill Committee. [Annex 1](#) of this briefing contains a list of the committee members.

2.1 The Government's approach

Introducing the Procurement Bill Jeremy Quin, Minister for the Cabinet Office and Paymaster General, said it would:

fundamentally improve the UK's public procurement regime, driving a relentless focus on value for money. It will create a simpler, more flexible commercial system that better meets our country's needs.¹³

The Minister said the Bill sought to deliver “world-leading standards of transparency in public procurement”. It would introduce procedures to address conflicts of interest and prevent inappropriate suppliers from joining procurement throughout the supply chain. The Minister said the Bill would give contracting authorities more powers than under the EU regime, enabling them to bar companies from procurement for misconduct or illegal activities.¹⁴

Caroline Lucas (Green Party) asked whether the Government would accept the Lords amendments requiring contracting authorities “to maximise environmental benefits when awarding contracts, and particularly to ensure compliance with the Climate Change Act 2008 and the Environment Acts”.¹⁵

In response, Jeremy Quin said the Government was not keen for the Bill's wording to be very prescriptive. He said the Bill offered flexibility by giving the Government power to set out, through a [national procurement policy statement \(NPPS\)](#), the required focus on social or environmental concerns, aspects of which might change over time. Including such commitments in the

¹³ [HC Deb 9 January 2023](#) c340

¹⁴ [HC Deb 9 January 2023](#) c343

¹⁵ As above; On Lords amendments see [section 4.6 \(Amendments on report\) of the Commons Library briefing CBP 9402 \(PDF\)](#).

Bill, he said, would risk making the process more bureaucratic, to disadvantage of contractors, small businesses and procurers.¹⁶

The Minister went on to say that in delivering value for money, the Bill would require public sector procurement teams to give greater weight to bids that support wider public benefit in line with national strategic priorities in the NPPS: improving supply chain resilience, enhancing skills, innovation, environmental protection, and others.¹⁷

The Minister outlined the how the Bill would make it easier for SMEs to become government suppliers, including a duty on contracting authorities to consider the specific needs of SMEs, which the Government added to the Bill in the House of Lords.¹⁸ In addition, the Bill would make it easier for small businesses to join frameworks.¹⁹ Frameworks are a type of contract with a limited number of pre-selected suppliers, which allows contracting authorities to award a specific contract to a listed supplier more easily at a future date.

In response to MPs' suggestions that targets should be set for procuring domestically produced goods such as steel in government-funded projects, the Minister questioned whether such efforts would be compliant with the UK's international obligations. He said that the Government publishes upcoming project pipelines (plans) and this helps the domestic steel industry.²⁰

Jeremy Quin said the Bill had new measures to exclude underperforming suppliers or "those who present risks through misconduct":

The Bill makes explicit provision to disregard bids from suppliers known to have used forced labour or to perpetuate modern slavery in their supply chain. Contracting authorities will now be able to exclude suppliers where there is appropriate evidence of wrongdoing, whether in the UK or overseas.²¹

The Minister noted the Government's ambition regarding more transparency and public access to various procurement data:

Everyone will have access to public procurement data: citizens will be able to scrutinise spend against contracts; suppliers will be able to see the pipeline of upcoming contracts so that they can identify new opportunities and develop innovative solutions; and buyers will be able to analyse the market and benchmark their performance against others on, for example, their spend with small and medium-sized enterprises.²²

¹⁶ [HC Deb 9 January 2023 c343](#); On the NPPS see [section 1.6](#) of the Commons Library briefing CBP 9402(PDF)

¹⁷ [HC Deb 9 January 2023 c346](#)

¹⁸ See [section 4.7 of the Commons Library briefing CBP-9402](#) (PDF)

¹⁹ Cabinet Office, '[Procurement Bill: Memorandum from the Cabinet Office to the Delegated Powers and Regulatory Reform Committee](#)', 11 May 2022, para 18

²⁰ [HC Deb 9 January 2023 c347](#)

²¹ [HC Deb 9 January 2023 c347](#)

²² [HC Deb 9 January 2023 cc347-348](#)

The Minister stressed “major safeguards” would be introduced for direct awards to suppliers in special cases, subjecting such contracts to enhanced transparency and scrutiny. For example, ministers would have power to make provisions in situations of extreme urgency, where contracts are necessary to protect life or public safety, but there is no time to run a competition. Such provisions would be subject to ongoing review and revoked when no longer necessary. Regulations would be subject to parliamentary scrutiny in both Houses through the affirmative procedure.²³

Backbench Conservative MPs highlighted the Bill’s proposals to enhance transparency, competition, and innovation, and to ease the burden for SMEs, but also said more could be done in some of these areas.²⁴ Mark Francois was critical of the defence procurement system and called for a reform.²⁵

2.2 Opposition views

Angela Rayner, Deputy Leader of the Opposition, said the Labour Party recognised the need for a procurement bill “to consolidate the patchwork of former EU rules” and was ready to work constructively with the Government to improve it. However, she said the Bill fell short in various aspects.²⁶

She said this was “an opportunity to make, buy and sell more in Britain”, including through purchasing UK-made steel, building infrastructure and defence spending, but the Bill did not go far enough to support the social value elements the spending with UK businesses would bring:

It is a chance to give more public contracts to British companies, big and small, so that contracts do not always automatically go offshore, to the giant corporations with the lowest prices, but to businesses creating local jobs, skills and training, maintaining workers’ rights and trade union access. That is what is important and what the social value elements of this Bill need to promote.²⁷

According to Angela Rayner, the Bill should aim to restore public trust in the procurement system:

I want a Bill that will restore trust in how public money is spent, will have social and environmental factors in it, and will make British industry the best it can be so that workers in this country get the best they can get. I urge the Minister to use this opportunity to plough taxpayers’ money back into local

²³ [HC Deb 9 January 2023 c348](#)

²⁴ See for example [HC Deb 9 January 2023](#) cc 342, 345, 356, 368-369

²⁵ [HC Deb 9 January 2023 c366](#)

²⁶ [HC Deb 9 January 2023](#) cc349-351

²⁷ [HC Deb 9 January 2023](#) cc350-352; Social value refers to the wider financial and non-financial impacts of projects and programmes including the wellbeing of individuals and communities, social capital and the environment. Cabinet Office Procurement [Policy Note 06/20 – taking account of social value in the award of central government contracts](#), 24 September 2020, provides more information on taking account of social value in procurement.

communities so that we can make, buy and sell more in Britain, claw back our money when it is wasted, and outlaw VIP lanes once and for all.²⁸

Labour said the Bill provides some welcome proposals to reduce the burden currently faced by SMEs, but needs improving, for example regarding late payments to suppliers, especially to subcontractors.²⁹

Angela Rayner welcomed the Bill's transparency provisions but described them as "limited" and said chapter 3 of the Bill (direct award) was "unambitious".³⁰ She said the Bill's provisions relating to direct awards (clause 41) were not strong enough on "tightening the leash on Ministers' freedom to award contracts directly". She said the Bill "does nothing" to prevent issues encountered during the pandemic procurement of personal protective equipment (PPE), that is, contracts being awarded through a high-priority 'VIP lane' "without oversight" to those who had links to the government.³¹

MPs from other parties, including Liberal Democrat spokesperson Sarah Olney, and SNP's Kirsty Blackman, supported the view that the Bill does little to prevent new 'VIP lanes' from emerging. The Government and Conservative MPs argued the Bill does introduce "strong safeguards" and better oversight. The Minister pointed at the additional transparency provisions, the option to take account of companies' past bad performance before awarding contracts, and the provisions to address conflict of interest.³²

Recognising the importance of transparency, MPs on both sides of the House called for a public dashboard for government contracts, similar to the Pro-Zorro system introduced by Ukraine as part of its anti-corruption push.³³ Alex Burghart, the Parliamentary Secretary to the Cabinet Office, responded that Ukraine had been on the UK Government's advisory panel and the UK's single digital platform for accessing procurement information, which the Government is working on, takes a lot from the Ukrainian example.³⁴

The Labour Party said it would go further with the Bill and make social value mandatory in public contract design and fast-track local businesses and those who create social value. Labour would introduce:

- full transparency about suppliers', especially multinational corporations' taxes paid in the UK, and overseas. Big corporations

²⁸ [HC Deb 9 January 2023 c355](#)

²⁹ [HC Deb 9 January 2023 c350](#)

³⁰ [HC Deb 9 January 2023 c353](#)

³¹ [HC Deb 9 January 2023 cc352-353](#); The Government established a high-priority lane, also called "the VIP-lane", at the beginning of the Covid-19 pandemic to assess and process potential offers of PPE referred by senior government officials, MPs and Lords, ministers' offices, NHS staff and other health professionals. The Government position is that all [contracts for the supply of PPE went through the same due diligence process](#) regardless of the source of the offer ([HC Deb 6 December 2022 c288](#)).

³² [HC Deb 9 January 2023 cc352, 360, 374, 380, 384](#)

³³ [HC Deb 9 January 2023 cc354, 369](#)

³⁴ [HC Deb 9 January 2023 c383](#)

would be asked to publicly reject tax avoidance and artificial presence in tax havens;

- provisions to promote “decent work” and high quality employment in the supply chain;
- measures to reverse “the outsourcing trend” and ask public bodies to consider whether work can be better done in-house;
- non-performance claw-back clauses in contract design to recoup money from failing suppliers.³⁵

The SNP was concerned with supporting environmental objectives, and banning organisations and companies involved in human rights abuses from tenders. The SNP welcomed the retained EU procurement principles of transparency, equal treatment, non-discrimination and proportionality, but said more should be done to implement them and ensure the UK Government cannot in certain situations unilaterally suspend them without sufficient justification.³⁶

Sarah Olney (Liberal Democrats) said the Bill needed to improve on aligning with environment and climate goals, as well as addressing conflicts of interest and social value:

The Liberal Democrats support efforts to reform to our procurement regime. We want to increase transparency and create opportunities for small businesses, but as it is currently written, the Bill will not achieve that. It fails to put an end to VIP lanes, it fails to grasp the opportunities for a system to create social value and it fails to support the Government’s own stated net zero goals.³⁷

She spoke in favour of the Lords amendment to bring NHS procurement fully within the scope of the Procurement Bill. On these amendments see [section 3.1](#) below.³⁸

2.3

National security concerns

Various MPs raised the point of national security as a strategic concern in procurement. They talked about rising geopolitical tensions upending the traditional supply chains and warned of public bodies dependency on suppliers linked to authoritarian and hostile states with malign intent, or companies linked to human rights abuses.

MPs mentioned examples such as the use of DJI drones and Hytera body cameras by British police, and the removal of Huawei technology from the UK

³⁵ [HC Deb 9 January 2023](#) cc353-355, 381

³⁶ [HC Deb 9 January 2023](#) c360

³⁷ [HC Deb 9 January 2023](#) cc374-375

³⁸ [HC Deb 9 January 2023](#) cc374-375

5G telecoms network. They mentioned Hikvision CCTV cameras installed in central and local government locations, while the company was said to be directly involved in the Chinese Government’s detention of Uyghur Muslims.³⁹

Alicia Cairns (Conservative) said the UK procurement system should strike a balance between value for money and the national security interests.⁴⁰ She asked for the Government to take a proactive role in investigations of companies to be put on debarment list and to support contracting authorities when they needed to find out whether a supplier was a security risk. She said the policy should not “attack” specific countries but needed to identify sensitive sectors and items subjecting them to due diligence. She also called for a SAGE-style committee focussing on national security in public procurement.⁴¹ Finally, she said, public authorities needed powers to investigate the supply chain to identify potential threats.⁴²

MPs from across the House spoke of being ready to work together to protect the supply chain from harmful actors and businesses involved in human rights abuses.⁴³

The Minister responded saying:

The debarment provisions allow for proactive investigations into any supplier or subcontractor and that cases will be selected by the Minister for the Cabinet Office. Selections of cases will be governed by a robust prioritisation policy, which we will set out in due course. The debarment list will be publicly available for all contracting authorities to consult, demonstrating how transparency is at the heart of the Bill.⁴⁴

2.4 Devolution aspects

While procurement is devolved, the Bill provides for certain powers which the Minister of the Crown, the Scottish and the Welsh ministers can exercise concurrently. See section 1.9 of the Commons Library briefing, [Procurement Bill 2022-23](#).

Kirsty Blackman (SNP) expressed “significant concerns” about the Bill’s approach to devolved Scottish powers, saying that she hoped the Scottish and the UK governments would resolve this “vital issue of principle”, otherwise the SNP would have to oppose the legislation at later stages. She said:

The Bill seeks to confer a power exercisable concurrently by UK and Scottish Ministers to implement the Government procurement chapters of the

³⁹ [HC Deb 9 January 2023](#) cc360, 362

⁴⁰ [HC Deb 9 January 2023](#) c362

⁴¹ The Scientific Advisory Group for Emergencies (SAGE)

⁴² [HC Deb 9 January 2023](#) c363

⁴³ [HC Deb 9 January 2023](#) c361

⁴⁴ [HC Deb 9 January 2023](#) c383

agreements with Australia and New Zealand by secondary legislation. Although the negotiation of international agreements might be a reserved matter, their implementation in devolved areas, such as Government procurement, is a devolved matter.

The correct constitutional solution would be to amend the Bill to grant the implementation powers solely to Scottish Ministers in Scotland [...].⁴⁵

Hywel Williams (Plaid Cymru) recognised the “significant degree of co-operation between both [the Welsh and UK] Governments on the Bill.” He said the Welsh Government would prefer the shared powers to be concurrent-plus powers, which would require the UK Government to receive consent before exercising them. The Welsh Government was also concerned about the Bill’s commencement powers. He noted that in March 2023 the [Senedd Cymru/Welsh Parliament passed the Social Partnership and Public Procurement \(Wales\) Act](#), which aims “to ensure that the Welsh procurement regime delivers social, environmental, economic and cultural results, including fair work”.⁴⁶

In committee stage of the Bill, the Government tabled various amendments aimed at addressing the issues raised by the Scottish and Welsh governments. See [section 3.3](#) below.

⁴⁵ [HC Deb 9 January 2023](#) c359

⁴⁶ [HC Deb 9 January 2023](#) cc377-378

3 Committee stage

The Committee Stage of the Procurement Bill [HL] 2022-23 took place over nine sittings between 31 January and 21 February 2023.

Alex Burghart, Parliamentary Secretary for the Cabinet Office, represented the Government. Florence Eshalomi, Shadow Minister for the Cabinet Office, was the spokesperson of the Labour Party. Kirsty Blackman, Shadow SNP Spokesperson for the Cabinet Office, represented the SNP. See annex 1 for an overview of the committee members.

At the start of committee stage the Bill comprised 124 clauses, and 11 schedules. There were 39 votes in the committee. The Government reversed all amendments made to the Bill in the House of Lords. Three new clauses were added to the Bill. Three other clauses were substituted with new clauses.

The Government made further amendments, many of which are technical, clarify the Bill's provisions or are consequential to other amendments. Significant new government amendments include:

- clarifying the process for how suppliers can appeal against their exclusion from procurement (debarment)
- setting parameters around the treatment of abnormally low tenders
- provisions regarding procurement-related international trade disputes and remedies available to UK and treaty state suppliers, that is, suppliers from countries with which the UK has a trade agreement
- addressing concerns around cross-border procurement within the UK

All but three of the government amendments passed without a vote. Non-government parties generally supported the Bill, but MPs pressed for a vote on over 30 opposition amendments, of which none were successful.

The main themes debated in the committee included commitment to social value and net zero objectives, buying locally and supporting small businesses, national security concerns when purchasing goods or services from suppliers linked to hostile states, preventing conflicts of interest and devolution issues.

Details of successful amendments can be found in the [summary of the Public Bill Committee proceedings](#) (PDF), which sets out how each amendment was dealt with. A full [list of decisions on all tabled amendments and new clauses](#) (PDF) is also available on the bill page.

3.1 Lords amendments removed from the Bill

The Government moved amendments to reverse all six non-government amendments made in the House of Lords.

See section 3.3 of Commons Library briefing, CBP 9402, [Procurement Bill 2022-23](#) for more information on the Lords amendments.

NHS procurement

Lords amendment to clause 2 aimed to include NHS fully in scope of the Bill's procurement regime. Clause 116 as amended in the Lords would have removed government power to make specific regulations in respect of healthcare procurement.⁴⁷

The Government removed these changes and, with a new clause (clause 119 replacing clause 116), reinstated ministerial power to disapply the Bill in relation to NHS procurement. The new clause was added without a division.⁴⁸

The national procurement policy statement and procurement principles

The Bill would require contracting authorities to support the delivery of strategic national priorities in procurement. Clause 13 would make provision for a national procurement policy statement (NPPS), where these priorities would be set out. A Lords amendment to this clause would have required the government to consider a set of principles before publishing the NPPS.⁴⁹

These principles would include: economic, social, environmental and public safety priorities, value for money, transparency and accountability for public spending, integrity, fair treatment of suppliers and non-discriminatory decision making. In committee, the Government proposed to remove the requirement to consider the said principles from the face of the Bill and leave them at government's discretion (amendment 28).⁵⁰ The committee agreed to remove the Lords amendment with nine votes to six.⁵¹

Another Lords amendment to clause 13 aimed to ensure legal requirements regarding climate change, the environment, public services, supplier

⁴⁷ On Lords amendment to clause 2 see section 4.5 of Commons Library briefing, CBP 9402, [Procurement Bill 2022-23](#)

⁴⁸ Amendment 27 to clause 2, New clause 13; [HC Deb 31 January 2023 \[Procurement Bill \[Lords\] \(First sitting\)\]](#) cc6-7

⁴⁹ Lords amendment 46 on report

⁵⁰ Amendment 28

⁵¹ [HC Deb 31 January 2023 \[Procurement Bill \[Lords\] \(Second sitting\)\]](#) cc54-64

innovation and the abuse of public money would be included as strategic priorities in the NPPS.⁵² In committee, the Government moved amendment 29 to clause 13 to reverse the Lords amendment.

While opposition MPs supported having procurement principles on the face of the Bill, the Minister said these principles were already embedded within the regime and reflected throughout the Bill and in other legislation. Alex Burghart said including the principles in clause 13 would have been duplicative. The NPPS would be used to describe government priorities of the time, and the form of a national policy statement offered the needed flexibility. The committee agreed to remove the Lords amendment with nine votes to six.⁵³

Excluding suppliers linked to forced organ harvesting

Amendment 87 reversed a Lords amendment on forced organ harvesting, which would have given contracting authorities discretionary power to exclude suppliers from being awarded a public contract if they had ties to forced organ harvesting.⁵⁴

Alex Burghart said this was a “well-meaning but, in practice, very challenging change to the Bill.” He explained the assessment of suppliers would be particularly burdensome because every exclusion ground must be considered for every supplier for each procurement. He added that serious unethical behaviour would qualify as “professional misconduct” – a ground for exclusion available in the Bill. The Government had also taken steps to ban organ trade, including under the Health and Care Act 2022.⁵⁵

The amendment was agreed on division by eight votes to four.

Removal of suppliers

The Government reversed a Lords amendment on removing suppliers, which would have created a timeline for the removal of physical technology or surveillance equipment from the government’s procurement supply chain, where there is established evidence that a provider has been involved in modern slavery, genocide, and crimes against humanity.⁵⁶

According to Alex Burghart given the complexity of technology supply chains, the review required as a result of the Lords amendment would be resource-intensive, possibly having to cover thousands of companies. The cost of removing such surveillance equipment from across the entire government estate would be significant. He pointed to the government statement of November 2022 asking departments to remove such equipment from sensitive

⁵² Lords amendment 47 on report

⁵³ [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(Second sitting\)\]](#) cc54-64

⁵⁴ Amendment 87 to Schedule 7 reversing Lords Amendment 91 to Schedule 7

⁵⁵ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c174

⁵⁶ Lords Amendment 94 inserting new clause 65

sites.⁵⁷ The Minister said the Bill, with an exclusion ground for suppliers considered a security threat, and a centralised debarment list for suppliers which must or may be excluded from procurement, would create a strong regime and allow the government to act quickly if a supplier had to be barred from public sector contracts.⁵⁸

Florence Eshalomi welcomed the ban on government departments from using surveillance cameras manufactured by companies such as Hikvision and Dahua on sensitive sites, as the companies had been linked to human rights abuses. However, the MP said the Government had to go further and referred to countries such as Australia and the US who have blacklisted these companies and banned the use of their cameras.

Florence Eshalomi also referred to [a report by Big Brother Watch](#) which found that around 2,800 public bodies (over 60%) currently use these surveillance cameras. The report found that 73% of local authorities, 63.4% of schools, 66.2% of colleges, 53.8% of higher education bodies, 34.9% of the UK's police forces and 60.3% of NHS trusts use Dahua and Hikvision cameras.⁵⁹

The committee supported the Government's proposal to reverse the Lords amendment to the Bill by eight votes to five.⁶⁰

3.2

Further government amendments to the Bill

The Government made further amendments, which the committee passed without a vote.

All of the amendments and new clauses moved by the opposition parties were rejected on division (see section 3.4 below).

Exempted contracts

Schedule 2 of the Bill lists the types of contracts exempted from procurement rules. Where exemptions apply only partly to a contract, contracting authorities would have to apply a 'reasonableness test' to decide whether a part of that contract must fall under procurement rules.

The Local Government Association and other stakeholders had concerns about these provisions of the Bill would impinge on local authority collaboration in procuring goods and services, for example purchasing from each other. In response, the Government moved a group of amendments to

⁵⁷ HCWS386 [on [Security Update on Surveillance Equipment](#)], 24 November 2022

⁵⁸ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c186; Clause 57 provides for a centralised public debarment list for serious cases of misconduct. Ministers would have power to add a supplier to the debarment list following an investigation.

⁵⁹ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c187

⁶⁰ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) cc185-189

clarify which types of contracts are exempted from procurement rules. Technical amendments split schedule 2 (exempted contracts) into two parts:

- Part 1 lists contracts that are always exempted. The first exemption is based on the relationship between contracting parties, that is, it exempts contracts between several contracting authorities (horizontal arrangements) and contracts between authorities and entities controlled by them (vertical arrangements). Part 1 also exempts defence and security contracts with other governments and utilities' contracts with affiliates and joint ventures.
- Part 2 lists specific exempted goods and services such as legal and financial services, and defence and security contracts. In mixed contracts, a contracting authority would be able to determine whether one part of a mixed contract would be reasonably suitable for procurement while other parts could be exempted. A contracting authority would also have power to exempt a procurement in the interests of national security.⁶¹

Abnormally low tenders

Government amendments 30 and, 31 in clause 19 (award of public contracts following a competitive tendering procedure), would allow contracting authorities to disregard tenders offering an abnormally low price. The Minister said the clause would send a clear signal to contracting authorities to take a “broader view” of tenders, beyond their price.⁶²

Labour supported the amendments and welcomed the Bill’s focus on giving priority to “most advantageous tender” instead of the current focus on “most economically advantageous tender”.⁶³ However, Florence Eshalomi (Labour) said this was not enough to change procurement practice and culture of prioritising the lowest costs over social benefits.

Contracts reserved for sheltered employment providers

Clause 32 would allow certain contracts to be reserved for supported employment providers to disabled or disadvantaged persons. Government amendments 32 and 33 to clause 32 would clarify, an organisation can be considered a “supported employment provider” if it only partly has a purpose to employ disabled or disadvantaged individuals. The Labour Party was concerned that lowering the threshold of employing disabled or disadvantaged workers in a qualifying company to 30%, as proposed by the Government, would water down the definition of supported employment. It

⁶¹ Amendments 85, 86, motions to transfer paragraphs 25, 31 and 32 of schedule 2; [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(First sitting\)\]](#) cc11-15

⁶² [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Third sitting\)\]](#) c91

⁶³ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Third sitting\)\]](#) c88

was worried that more providers, not focused on the needs of the disabled, would gain access to reserved contracts.⁶⁴

More regulations made by affirmative procedure

Following recommendations of the Delegated Powers and Regulatory Reform Committee, the Bill was amended in the Lords to mandate affirmative procedure, instead of the negative procedure as originally proposed, for secondary legislation when setting certain financial thresholds, which trigger action by contracting authorities.⁶⁵

In committee, the Government introduced similar amendments in relation to adjusting the threshold for contracting authorities to publish Key Performance Indicators (KPIs) for major contracts (clause 52).⁶⁶ Government amendments 75, 78 and 80 would ensure that the financial threshold (currently £5 million) for publication of KPIs would be adjusted by affirmative procedure.⁶⁷

Supplier exclusion regime

Clauses 26 to 28 would establish the supplier exclusion regime, which protects contracting authorities from engaging with unfit suppliers. The detailed mandatory and discretionary grounds for exclusion are listed in Schedules 6 and 7 respectively.

Clause 57 would define suppliers to be “excluded” on mandatory grounds and “excludable” on discretionary grounds. Clause 62 would establish a debarment list for excluded and excludable suppliers and give a Minister of the Crown power to add a supplier to the debarment list following an investigation. Once on the list, a supplier would stay on the register for up to five years unless they undergo a self-cleaning process and no longer pose a risk.⁶⁸

The committee agreed to a number of significant government amendments in relation to the exclusion regime:⁶⁹

- Amendment 42 to clause 62 would clarify how entries on the debarment list are made. New subsections (5A) and (5B) to clause 62 (amendment 43) would introduce a standstill period, during which the supplier to be put on the debarment list, would be able to apply to the court for suspension of the Minister’s decision.

⁶⁴ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#) cc116-120

⁶⁵ House of Lords Delegated Powers and Regulatory Reform Committee (DPRRC), [3rd Report of Session 2022-23, Procurement Bill, HL Paper 15](#) (PDF), 14 June 2022

⁶⁶ [HL Deb 28 November 2022 c1607](#)

⁶⁷ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc154-155

⁶⁸ [HC Deb 9 January 2023](#) c383

⁶⁹ Amendments 42 to 47, New clauses 9, 10 and 15

- A new clause 63 (debarment decisions: interim relief) sets out the interim relief procedure, which would allow the court to suspend the Minister's decision during the supplier's appeal.⁷⁰
- Amendments 45 to 47 to clause 64 (previously clause 63), which sets out how suppliers, who have self-cleansed, can apply for their removal from the debarment list.
- New clause 65 (debarment decisions: appeals) sets out a detailed debarment appeals mechanism, allowing suppliers to appeal debarment decisions to the court. It replaces former clause 64 with its power to provide details of the appeals mechanism by government regulation.⁷¹

New clause 66 (debarment proceedings and closed material procedure) would allow the Minister for the Cabinet Office to apply for a declaration permitting 'closed material procedure' applications in debarment appeal proceedings. Alex Burghart clarified that this procedure is currently used in civil proceedings and involves the non-government parties leaving the courtroom while sensitive material is heard. The Government proposed to extend it to debarment appeals proceedings, for example when a supplier has been added to the debarment list because of an assessed threat to national security.⁷²

Trade disputes

A government new clause 92 (trade disputes) and consequential amendments would introduce new delegated power to enable the UK ministers or the Scottish ministers to take steps in procurement-related disputes under the World Trade Organization's Government Procurement Agreement, or in relation to a country with which the UK has a free trade agreement on procurement.⁷³

This would enable the Government to change procurement legislation, for example to remove the market access of suppliers from a trading partner, or to correct the UK's own breaches of a trade agreement. This power would not be used to address trade disputes in other areas than procurement and would be subject to the affirmative procedure.

⁷⁰ New clause 9; Interim relief refers to court orders of temporary measures such as suspending an authority's decision, pending the final resolution of legal proceedings.

⁷¹ New clause 15 and consequential amendment 76 ; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c183

⁷² New clause 10; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c183; Technical amendment 65 to clause 97 would ensure that challenges to debarment decisions are dealt with under clause 64

⁷³ New clause 11 and amendments 69, 77, 79, 81, 82 and 83; [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Seventh sitting\)\]](#) cc218-219

Remedies for breach of statutory duty

Clauses 99-106 outline the remedies that would be available to UK or treaty state suppliers, who have suffered loss or damage because of a contracting authority's failure follow procurement rules. These clauses detail the remedies, which would be available at different stages of procurement, and the applicable time limits on claims.

A government new clause 106 (Part 9 proceedings and closed material procedure) would allow the government to request a closed material procedure described [earlier in this section \(Supplier exclusion regime\)](#) in cases involving national security interests.⁷⁴

Further government amendments

The Government made several technical amendments which were also agreed without division:

- amendments to clause 54 (time limits) would allow to speed up certain utilities and sub-central government (for example, local authority) procurement procedure;⁷⁵
- clause 56 (technical specifications) was amended to clarify how contracting authorities should use technical specifications, such as product standards, certification and accreditation, to describe goods and services they will purchase, without discriminating between equivalent goods, services or suppliers. The amendments also clarify that procurement documents may refer to a UK standard if this standard adopts an internationally recognised equivalent;⁷⁶
- a technical amendment to schedule 7 (discretionary grounds for exclusion);⁷⁷
- amendments to clauses relating to electronic invoicing and defence procurement;⁷⁸
- amendments regarding a requirement to publish payment compliance notices;⁷⁹
- to reduce administrative requirements around changes to existing public contracts, the Government clarified contracting authorities are only

⁷⁴ New clause 12

⁷⁵ Amendments 34 to 36; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc158-160

⁷⁶ Amendments 37 to 41; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc161-164

⁷⁷ Amendment 88; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#)

⁷⁸ Amendment 50 to clause 67 (previously clause 66); amendments 51, 52 and 61 to 64; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#), cc189-190

⁷⁹ Amendment 53 to clause 69 (previously 68)

required to publish information related to modifications of high-value contracts.⁸⁰

3.3 Devolved issues in the committee and legislative consent

The UK Government has sought legislative consent of the Senedd Cymru, the Scottish Parliament and the Northern Ireland Assembly for the Procurement Bill.

The Scottish Government did not recommend consent to this Bill as introduced.⁸¹ The Welsh Government had indicated its consent would be conditional upon certain amendments. See section 1.9 of the Commons Library briefing, [Procurement Bill 2022-23](#).

Following discussions with the Scottish and Welsh governments, the UK Government made several amendments in the Public Bill Committee, which would clarify and limit its power to make certain regulations regarding devolved procurement.

Scotland and the implementation of UK's international agreements

Clause 91 (Treaty state suppliers: non-discrimination in Scotland, previously clause 90) allows regulations to be made in relation to devolved procurement in Scotland to ensure 'treaty state suppliers' are not discriminated against. The UK Government sought to address a Scottish Government concern that the power in this clause is broader than necessary.⁸² The Minister, Alex Burghart, said government amendments 59 and 60 would clarify that the use of this power is limited to rare circumstances when international agreements must be ratified or complied with. The power could not be used to amend Scottish procurement rules substantively. The committee passed the amendments without a vote.⁸³

Kirsty Blackman (SNP) tabled amendment 102 to clause 91 (previously clause 90) requiring the UK Government to receive consent of Scottish ministers before regulations under this clause are made. Kirsty Blackman said this was necessary to protect the devolution settlement. The Minister assured the Government would only use the power in extreme cases, for example, if a

⁸⁰ Amendments 54 in clauses 75 (previously 74) and amendments 55 to 58 in clause 77 (previously 76); [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) cc197-200

⁸¹ Scottish Parliament, [Procurement Bill](#), 25 May 2022

⁸² Amendments 59, 60

⁸³ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Seventh sitting\)\]](#).c218

hypothetical Scottish government would deliberately hold up the UK joining an international agreement. The SNP amendment was rejected.⁸⁴

The Government made amendments 70 to 73 to clause 114 (powers relating to procurement arrangements; previously clause 111) to remove the power of a Minister of the Crown to amend Scottish procurement legislation in relation to cross-border procurement in the UK. The Minister said this had been a contingency power and, since new arrangements were being made with the Scottish Government, it was no longer necessary to have this power. The amendments were agreed without a vote.⁸⁵

Welsh procurement

The Government made **amendments 66 to 68 to clause 110 (Welsh Ministers: restrictions on the exercise of powers; previously clause 107)**, in relation to Welsh devolved procurement. The Minister recognised the competence of Welsh contracting authorities under this clause was “ill-defined”.⁸⁶ It would require devolved contracting authorities, which operate principally in Wales but have some operations in England, to follow two sets of rules. The government amendments would clarify that such authorities would be subject to a single set of Welsh procurement rules.

The Government also amended **clause 112** (Minister of the Crown: restrictions on the exercise of powers; previously clause 109) to clarify the limit of its regulation making power and to ensure that any power to make consequential provisions requires consent of the Welsh Government.⁸⁷

Government amendment 115 to clause 126 (previously clause 123) on commencement would require a Minister of the Crown to obtain consent from the Welsh ministers before making commencement regulations in respect of devolved Welsh procurement aspects of the Bill. This and consequential amendments adds a new power to make regulations on commencement, subject to the affirmative procedure.⁸⁸

The above government amendments were agreed without a vote.

Legislative consent motions

The UK Government has sought legislative consent from the devolved legislatures for the Procurement Bill.

[The Senedd agreed on 29 March to give partial consent to the Bill](#) (PDF). However, it did not give consent to provisions in relation to “treaty state suppliers”, “trade disputes” and related provisions in schedule 9, which lists specified international agreements, as far as these provisions fall within the

⁸⁴ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Seventh sitting\)\]](#) c221

⁸⁵ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Eighth sitting\)\]](#) c242

⁸⁶ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Eighth sitting\)\]](#) c239

⁸⁷ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Eighth sitting\)\]](#) cc239-240

⁸⁸ Amendments 113 and 114

legislative competence of the Senedd. With this, the Senedd rejected the concurrent powers without a requirement to obtain the consent of the Welsh ministers when UK Government ministers are exercising these powers in relation to the devolved areas of competence.⁸⁹ If no compromise is found however, legally, the UK Parliament can seek Royal Assent for any bill, even if a devolved legislature withholds consent.⁹⁰

After the Government made amendments to the Bill (summarised in the section above), [the Scottish Parliament gave its consent to the Bill on 16 March 2023](#) (PDF).⁹¹

Since the Northern Ireland Assembly Elections on 5 May 2022 the Assembly and the Northern Ireland Executive are not functioning, so have not responded with legislative consent.

3.4 Non-government amendments

No opposition amendments were made to the Bill in committee stage. Over 30 non-government amendments were put to a vote but were rejected on division. These amendments are summarised below.

Procurement objectives and principles

Aiming to spell out procurement objectives and principles in the Bill, rather than in the national procurement policy statement, which would be subject to government discretion, the Labour Party and the SNP tabled several amendments to clause 12 (covered procurement: objectives).

The amendments would require contracting authorities to consider objectives such as social value, public value, net-zero commitments, transparency and anti-corruption. Labour new clause 2 would have required authorities to follow a series of principles in their procurement. Labour amendment 89 would have defined the meaning of ‘value for money’ in procurement.⁹²

Alex Burghart responded saying these amendments were unnecessary. For example, he said ‘value for money’ was fundamental to the procurement regime and didn’t need to be elaborated on. Objectives such as transparency and integrity were embedded throughout the Bill and were supported by a

⁸⁹ Senedd Cymru website, [Legislative Consent: Procurement Bill](#) (accessed 31 May 2023); Concurrent powers are delegated powers exercised concurrently by devolved ministers and the UK ministers in devolved areas of competence.

⁹⁰ More information in Institute for Government, [Sewel convention Explainer](#), accessed 6 June 2023

⁹¹ Scottish Parliament website, [Procurement Bill](#), 25 May 2022 (accessed 31 May 2023)

⁹² Amendments 9, 10, 100, 101, New clause 2; [HC Deb 31 January 2023 \[Procurement Bill \[Lords\] \(Second sitting\)\]](#) cc34-48

legal obligation to act on conflict of interest and to exclude inappropriate suppliers.⁹³

Amendments 9, 10, 100, 89 were rejected on division.

For further information on the Bill’s approach to conflict of interest see [Minister’s letter on managing the conflict of interest in the Bill](#) (PDF) of 2 March 2023.⁹⁴

The Labour Party sought to amend **clause 13** on the national procurement policy statement and make publication of the statement mandatory, instead of leaving the decision at a government’s discretion. Alex Burghart said any government would require as much flexibility as possible to decide its strategic policy priorities.⁹⁵

The SNP proposed to mandate in clause 13 that suppliers, which have been involved in modern slavery, genocide or crimes against humanity, are excluded from procurement.⁹⁶ Alex Burghart pointed to government policy and guidance requiring contracting authorities to take account of national security considerations, where relevant (see section on national security below). The Minister said the Bill built a robust regime for the exclusion of suppliers deemed unfit to hold public contracts through the debarment regime in clauses 59 to 64. The Bill’s exclusion grounds in schedules 6 and 7 included modern slavery.⁹⁷

SME procurement

As indicated during the second reading, the Labour Party moved several amendments aimed at supporting the participation of SMEs in procurement. These related to clause 16 on preliminary market engagement and clause 21 on tender notices.⁹⁸ Florence Eshalomi referred to data by Spend Network, the British Chambers of Commerce and Tussell, which showed “truly shocking” statistics of SMEs taking a small share of the government procurement market.⁹⁹

Labour amendment 25 in clause 21 would have compelled contracting authorities to engage with SMEs before publishing a tender notice of a contract deemed suitable for SMEs. The Government said the Bill contained sufficient measures to support SMEs and the proposed amendments would

⁹³ [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(Second sitting\)\]](#) cc 45-46

⁹⁴ DEP2023-0221 ([Letter to David Davis MP](#)) (PDF), 2 March 2023

⁹⁵ Amendment 22; [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(Second sitting\)\]](#) c54

⁹⁶ Amendment 105 to clause 13

⁹⁷ [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(Second sitting\)\]](#) c63

⁹⁸ Amendments 20, 21 to clause 16 and amendment 25 to clause 21; [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Third sitting\)\]](#) c74

⁹⁹ As above; According to government reporting, in 2020/21 about 26.9% of central government procurement spending went to SMEs – 14.2% directly and 12.7% indirectly, through the supply chain. See Cabinet Office, [Central government spend with small and medium-sized enterprises, 2020 to 2021](#), 26 May 2022

add an extra layer of bureaucracy and delay procedures. The amendments were rejected.¹⁰⁰

Co-operative societies and charities

Florence Eshalomi moved amendments to clause 12 which aimed to improve chances of co-operative societies and charities to become government suppliers. The Minister said the Bill’s provisions benefiting SMEs would cover a significant proportion of co-operatives and charities. The amendments were rejected.¹⁰¹

Real Living Wage

Labour Amendment 95 in clause 19 (award of public contracts following a tender) would have required suppliers to guarantee the payment of ‘the Real Living Wage’ to their employees, contractors and subcontractors.¹⁰² The Government said it would be disproportionate to compel private sector employers to pay their workers beyond minimum legal requirements. It was open to contracting authorities to include conditions around pay in their tenders should they feel it is appropriate in the given circumstances. The amendment was rejected.¹⁰³

National security

Excluding suppliers for reasons of national security

Florence Eshalomi tabled a series of amendments to **clause 26** (excluding suppliers from a competitive award) and **clause 29** (excluding a supplier that is a threat to national security) which would have moved the national security grounds for exclusion from schedule 7 to schedule 6. She explained this would mean “taking the consideration that a supplier is a threat to national security from being a discretionary to a mandatory ground”.¹⁰⁴

Alex Burghart said in response that all contracting authorities “must consider all exclusion grounds, mandatory and discretionary, against every supplier in each procurement”. The Minister argued against making such a requirement mandatory, saying there needs to be room for “some scope for nuance and flexibility in the application of the exclusion ground.” The amendments were defeated on division.¹⁰⁵

¹⁰⁰ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Third sitting\)\]](#) cc76-77

¹⁰¹ Amendments 1 to 3, 90, 91; Amendments 1 and 90 were negatived on division. [HC Deb 31 January 2023 \[Procurement Bill \[Lords \] \(Second sitting\)\]](#) cc48-51

¹⁰² The Real Living Wage’ would be defined as “the hourly wage rates for London and for outside London calculated annually by the Resolution Foundation and overseen by the Living Wage Commission (or their successor bodies)”; [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Third sitting\)\]](#) cc 82-88

¹⁰³ Amendments 95 to 99

¹⁰⁴ Amendments 15 to 19; [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#) c110

¹⁰⁵ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#) c113

Clause 41 permits direct awards in situations where there are no other suitable suppliers, or where there is an extreme and unavoidable urgency. Further Labour **amendments 13 and 14 to clause 41** would have prevented a contract to be awarded directly, without a competition, to an ‘excludable’ supplier when the supplier was excluded as a threat to national security. Florence Eshalomi argued the amendments were necessary to help procurement officers who could not be expected “to be national security experts and to spot every threat that could be present with a supplier with national security concerns”.¹⁰⁶ The Minister responded that the proposed system of notifying the Government before the exemption is invoked would provide support. He argued that discretion was preferable in instances where there was only one supplier. Amendment 13 was rejected on division.¹⁰⁷

Establishing a national security procurement committee

New clause 1, amending **clause 29**, would have established a national security procurement committee, chaired by the Minister for Resilience, to consider national security and cyber security within the government’s supply chain. Florence Eshalomi said the clause aims for “cultural change” in national security and procurement and would consider whether a supplier could be excluded on national security grounds.¹⁰⁸ Alex Burghart accepted the intention of the new clause but argued it duplicates aspects of the new procurement regime underpinned by the Bill.¹⁰⁹ The clause was defeated on division.

Dependence on high-risk states

New clause 4, amending **clause 29**, (Bob Seely, Conservative) would have required the Government to publish a plan to reduce the dependence on high-risk states. The clause was not voted on.

Direct awards

The SNP moved **amendment 103 to clause 41 (direct awards)**,¹¹⁰ which would have required a contracting authority, before awarding a contract without competition, to be satisfied that the supplier has not received preferential treatment by virtue of a recommendation made by an MP or a member of the House of Lords. Kirsty Blackman said this amendment was in line with a recommendation of the National Audit Office to include transparency declarations with contracts awarded under emergency provisions.¹¹¹

The Minister responded by saying the Bill already covered such scenarios and required contacting authorities to ensure suppliers are treated equally and to

¹⁰⁶ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#).c132

¹⁰⁷ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#).cc 112-113; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#).cc132-133

¹⁰⁸ [Procurement Bill Deb 2 February 2023 c112](#)

¹⁰⁹ As above

¹¹⁰ Related amendment 104 and Labour amendment 111

¹¹¹ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#).c134

address conflicts of interest. The Bill would ringfence situations which justify a direct award, such as protection of intellectual property rights, exclusive rights or technical reasons, for example when only a single supplier can deliver the contract. The Minister noted clause 82(3) (previously clause 81(3)) would mean if a conflict of interest gives a supplier an unfair advantage and the situation cannot be mitigated, the supplier must be excluded. The amendment was defeated on division.¹¹²

Clause 42 on direct awards to protect life gives power to issue emergency regulations allowing direct award of contracts. Labour **amendment 108 to Clause 42** would have added a sunset clause to this power, making sure that Parliament had to approve the use of these powers every three months.¹¹³ Florence Eshalomi said competitive awards must be the default for procurement and the power to allow direct awards should be exercised only in the most severe circumstances.¹¹⁴

Alex Burghart said the Bill would provide sufficient safeguards “in the extremely rare event that regulations under clause 42 are needed”. Clause 42 aimed to implement a recommendation of the first Boardman review of COVID-19 procurement¹¹⁵, which proposed giving ministers power to designate situations as a “crisis” provided certain criteria were met. Making the regulations under this clause would be subject to the made affirmative procedure and the scope of clause 42 was sufficiently confined to prevent any abuse. Contracting authorities would have an additional obligation to publish a transparency notice before a direct contract award. The amendment was rejected on division.¹¹⁶

Excluding suppliers for improper behaviour

Labour tabled amendments to clause 57 (meaning of excluded and excludable supplier) to make every supplier or associated person on the debarment list, including those added on a discretionary ground, excluded suppliers.¹¹⁷ Recognising that the debarment list was reserved for the most serious cases of misconduct, the Labour Party was concerned that under the current provisions, a contracting authority would still be able to award a contract to a supplier who has committed a breach that is grounds for discretionary exclusion, for example is guilty of environmental misconduct, has frequently breached contracts, or performed poorly.¹¹⁸

Alex Burghart said that contracting authorities should have to do their own due diligence on the supplier’s misconduct and self-cleaning measures but

¹¹² [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc139-140

¹¹³ Amendment 108

¹¹⁴ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) c143

¹¹⁵ In 2020/21, The Cabinet Office [commissioned an independent expert review](#) in relation to pandemic procurement. Nigel Boardman published two reports and recommendations, which the Government has accepted.¹¹⁵

¹¹⁶ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc144-145

¹¹⁷ Amendments 23 and 24

¹¹⁸ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) cc170-172

given that discretionary exclusion grounds are potentially less serious, a contracting authority should retain some discretion with regard to a supplier put on the debarment list on these grounds. Amendment 23 was rejected.¹¹⁹

New discretionary grounds of exclusion

The Labour Party said the proposed discretionary grounds of exclusion were a step forward compared to the Public Contracts Regulations 2015; the Bill added provisions on matters such as labour rights and environmental misconduct.¹²⁰ In addition, Florence Eshalomi tabled several amendments which would have added more discretionary grounds of exclusion to the list of Schedule 7.

Amendment 106 to Schedule 7 would have added violations of the UK sanctions regime to the list. The Government did not consider that sanctions violations posed a sufficient risk to procurement to justify a ground for exclusion; it said there was currently no evidence of public contracts being awarded to such suppliers. The amendment was rejected on division.¹²¹

Amendment 112 to Schedule 7 would have added significant breaches of the rights of employees. The intention of the amendment was to improve the standards of work and ensure public procurement is used to promote decent work throughout the supply chain.¹²²

In response, the Government said robust grounds for exclusion were in place for the most serious violations of workers' rights. The current scope of mandatory grounds of exclusion (Schedule 6) was expanded in this Bill with new grounds, including failure to pay the national minimum wage. In addition, contracting authorities would be able to set conditions of participation and to evaluate the treatment of workers as part of the award criteria when assessing tenders, and if it was relevant to the procured contract. The amendment was rejected on division.¹²³

Accessibility requirements for disabled people

Florence Eshalami noted the Bill does not explicitly require public authorities to take account of accessibility requirements for disabled people. She moved **amendment 8 to clause 56** (technical specifications), to include such requirements on the face of the Bill, replicating the current provisions in the Public Contracts Regulations 2015. Alex Burghart said the Government remained committed to procurement, which ensures better outcomes for people with disabilities. However, the relevant requirements were covered by the public sector equality duty under the Equality Act 2010 and there was no

¹¹⁹ As above

¹²⁰ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c180

¹²¹ Amendment 106 to Schedule 7; [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c177

¹²² [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c178

¹²³ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) c179

need for a separate provision in the Bill. The amendment was rejected on division.¹²⁴

Paying suppliers

Labour **amendment 110 to clause 67** (implied payment terms in public contracts) would have required the Government to report to Parliament concerning the effectiveness of the Bill’s provisions in ensuring prompt payment to SMEs. Labour said it was pleased with the terms to protect the 30-day payment standard between contracting authorities and primary suppliers, but it had concerns about the protection of subcontractors. The amendment was rejected on division.¹²⁵

Conflict of interest

Clause 81 mandates contracting authorities to take all necessary steps to identify potential conflicts of interest in the procurement process. Labour **amendments 116 and 117 to clause 81** (previously clause 80) would have defined ‘indirect influence’ on procurement decisions by capturing a range of individuals, including civil servants, special advisers, and parliamentarians, whose influence on procurement might lead to conflicts of interest. The Government rejected them saying the amendments were broadly drawn and guidance would be a better place for specific designations. Amendment 116 was rejected on division.¹²⁶

Defence contracts

Weighting award criteria to advantage UK suppliers

Chris Evans (Labour) spoke to **amendment 12**, which would amend **clause 23** (award criteria) to state that where the contracting authority is the Ministry of Defence and the contract concerns defence or security, the award criteria must be weighted to advantage UK suppliers. Chris Evans explained that this amendment relates to his party’s support of the British defence industry:

Labour in government would make it fundamental to direct British defence investment first to British businesses, with a higher bar set for any decisions to buy abroad. That is the objective behind the amendment.¹²⁷

The Minister said the amendment would create the risk that it might force defence authorities to accept more expensive contracts “perhaps with lower capability”, to the “detriment” of taxpayers money and the capability of the armed forces.¹²⁸ The amendment was rejected on division.

¹²⁴ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Fifth sitting\)\]](#) cc162-164

¹²⁵ [HC Deb 7 February 2023 \[Procurement Bill \[Lords \] \(Sixth sitting\)\]](#) cc 190-191

¹²⁶ [HC Deb 9 February 2023 \[Procurement Bill \[Lords \] \(Seventh sitting\)\]](#) c212

¹²⁷ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#) c97

¹²⁸ [HC Deb 2 February 2023 \[Procurement Bill \[Lords \] \(Fourth sitting\)\]](#) c101

Review the procurement of Fleet Solid Support ships

New clause 7 would have required the Defence Secretary to review the procurement of Fleet Solid Support ships and report the findings by the end of 2023. Chris Evans explained the decision to award the contract for the ships in November 2022 to a Spanish firm is “concerning”.¹²⁹ Alex Burghart said it would not be appropriate to set out the requirements for one specific project in a bill setting out the framework for public procurement. The clause was defeated on division.

National Audit Office report on waste in the Ministry of Defence

New clause 8 would require the National Audit Office (NAO) to produce a report identifying instances of waste in Ministry of Defence procurement over the last five years. Chris Evans gave several examples of what he described as waste in support of the new clause.¹³⁰ In response, Alex Burghart said the NAO conducts a yearly audit of the defence equipment plan and regularly audits selected programmes. The Minister also said the requirement would interfere with the NAO’s statutory independence from government, as the NAO independently decides what projects and public bodies it audits. The clause was defeated on division.

Other new clauses defeated in the committee

Outsourcing

New clause 3 (Labour) would have created a process for contracting authorities to follow before taking a decision to outsource a service contract previously carried out in-house, or when a contract comes up for renewal.

The amendment would have introduced a public interest test for such decisions, requiring a contracting authority to present evidence that outsourcing is in public interest and the service cannot be better delivered in-house. The outcomes of the test would be published. The Government found the proposed test to be “hugely burdensome” and pointed to the available guidance for outsourcing decisions, including the government [Sourcing Playbook](#).¹³¹

Carbon reduction plans

New clause 5 (Labour) would have required bidders for larger contracts to publish a carbon reduction plan containing information and targets for the emissions attributable to the performance of the contract. The Carbon Reduction Plan would become one of the key performance indicators for certain contracts. Florence Eshalomi said this amendment aimed to give the principles of government [Procurement Policy Note 06/21: Taking account of](#)

¹²⁹ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\] c276](#)

¹³⁰ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\] c279](#)

¹³¹ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\] cc266-270](#); See Cabinet Office, Crown Commercial Service, [The Sourcing Playbook](#), May 2021

[Carbon Reduction Plans in the procurement of major government contracts](#) a statutory footing. The Minister confirmed the Government's commitment to net zero objectives but argued the new clause would limit opportunities for the Government to amend and improve the policy in the future.¹³²

Judicial relief due to conflict of interest

New clause 6 (Labour) aimed to ensure that if an MP, a member of the House of Lords or a senior civil servant lobbied a contracting authority to award a contract to a certain supplier and a court held that this had resulted in unequal treatment of suppliers, the court would be able to grant relief.¹³³ In response, the Government argued the Bill already provided for a relief mechanism. It allowed aggrieved competing suppliers at risk of suffering loss or damage due to a breach of procurement rules, to seek legal remedies under Part 9 of the Bill. In addition, they could ask the appropriate authority (the Cabinet Office Procurement Review unit) to investigate the matter.¹³⁴

Procurement Transaction system

New clause 14 (Labour) would have given the Government power to mandate all contracting authorities to use a specified common online system for publication of information on procurement. Alex Burghart said the Government had committed itself to sharing procurement information online and the clause would be a duplication.¹³⁵

Services to victims of violence against women

New clause 16 (Labour) aimed to ensure authorities procuring specialist support services for victims of violence against women and girls would consider social value. According to Florence Eshalomi, this would help enforce the current guidance. It would also remedy the current system where authorities at the local level increasingly awarded such contracts to generic providers with limited expertise in matters of domestic abuse and violence. Labour MPs gave examples of cases where contracts with small, specialist providers were terminated resulting in lower level of service.¹³⁶

The Government pointed to the legal requirement under [the Public Services \(Social Value\) Act 2012](#) to consider social value, and the provisions of this bill, such as its emphasis on the Most Advantageous Tender (MAT), when selecting the preferred supplier.¹³⁷

Procurement and human rights

New clause 18 (Alex Norris, Labour and Co-operative) would have allowed contracting authorities not to buy goods or services from countries, based on

¹³² [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) c272

¹³³ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) c274

¹³⁴ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) Cc273-275

¹³⁵ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) c283

¹³⁶ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) cc 285-7

¹³⁷ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) c288

their human rights record. This would be assessed consistently against contracting authorities' statements of policy on human rights. Florence Eshalomi said the amendment was not directed against individual countries but would mandate the Government to issue guidance, outlining a framework for ethical considerations. Authorities would have to develop their statement of policy guided by this framework.¹³⁸

Alex Burghart said human rights abuses had no place in the procurement system, however the new clause would in effect allow contracting authorities to apply “blanket boycotts” of suppliers from entire nations, without regard to the track record of individual suppliers. He said this would be disproportionate and in certain situations contravene UK’s international commitments. According to the Minister, available guidance and the Bill’s regime of exclusions of suppliers, including those implicated in modern slavery and human trafficking, would suffice.¹³⁹

¹³⁸ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) cc 289-290

¹³⁹ [HC Deb 21 February 2023 \[Procurement Bill \[Lords \] \(Ninth sitting\)\]](#) cc 291-292; See Cabinet Office, Procurement Policy Note [PPN 02/23 - Tackling Modern Slavery in Government Supply Chains – Guidance](#), 27 April 2023; Cabinet Office, PPN

4 Remaining stages

The Bill's remaining stages in the Commons are scheduled for 13 June 2023. Full [text of all amendments and new clauses proposed for consideration at report stage](#) (PDF), with accompanying explanatory statements, can be accessed from the 'publications' tab of the Bill's pages on the Parliament website.

As of 8 June 2023, MPs have tabled 59 amendments and 16 new clauses. Of these amendments the Government has tabled 39, with the focus on national security issues. Non-government amendments relate to national security, human rights, labour rights and other issues.

References to clause numbers in this section relate to the [Bill as amended in Public Bill Committee](#) (PDF).¹⁴⁰

4.1 Amendments for the report stage

Government amendments

Following discussions in committee stage, the largest group of government amendments relates to debarment of suppliers on national security grounds. The Cabinet Office statement clarifies the government amendments would establish:

- a National Security Unit for Procurement. The new team, which will be based in the Cabinet Office, will investigate suppliers who may pose a risk to national security, and assess whether companies should be barred from public procurements.
- New powers to ban suppliers from specific sectors, such as areas related to defence and national security, while allowing them to continue to win procurements in non-sensitive areas.

In addition, the Government is committing to publish a timeline for the removal of surveillance equipment produced by companies subject to China's National Intelligence Law from sensitive central government sites.¹⁴¹

Specifically, **amendment 57** would add a mandatory exclusion ground to schedule 6, national security. It would allow the Minister to add a supplier to the debarment list as an 'excluded supplier' in relation to specific contracts, if

¹⁴⁰ Bill 249 2022-23

¹⁴¹ Cabinet Office, [Procurement Bill strengthened to protect national security](#), 7 June 2023

fulfilling these contracts by this supplier would pose a threat to national security.

Non-government amendments tabled to address national security issues are summarised further in this section.

The Government has also proposed a new clause on record keeping, which would require contracting authorities to retain records explaining certain decisions (**new clause 15**). Further amendments are largely consequential on other amendments, technical or clarify the Bill's provisions.

4.2 Non-government amendments

National security

A number of amendments tabled for report stage relate to nations' security issues, which were debated during the second reading ([section 2.3](#) above) and in committee ([section 3.4](#)).

New clause 1 tabled by Ian Duncan Smith (Conservative) with cross-party support, proposes to require the removal of physical surveillance equipment produced by companies subject to the National Intelligence Law of the People's Republic of China.

New clauses 2, 3, and 5 to 8, as well as amendments 9 to 12 tabled by Alicia Kairns (Conservative) with cross-party support, would require the Government to publish lists of sensitive sectors and high-risk suppliers in terms of national security. The lists would be kept under review by a new Procurement Security Commissioner. Contracting authorities would be able to award contracts to listed suppliers only with explicit government approval. They would also be required to ascertain whether sub-contractors are on the high-risk list.¹⁴²

New clause 13 (Bob Seely, Conservative) would require the Government to present a plan to reduce dependence upon goods and services originating in countries defined as 'high risk' in terms of national security.

Similar to amendments debated in committee stage (see [section 3.4](#)), Labour **amendment 15** would move national security from among the discretionary exclusion grounds in Schedule 7 to the mandatory exclusion grounds in Schedule 6.

NHS procurement

New clause 9 and amendment 13 and 14 (Sarah Olney, Liberal Democrats) would bring NHS and procurement by NHS England in scope of the

¹⁴² [China hawks want to toughen proposed new UK procurement law, Politico](#), 4 April 2023

Procurement Bill. In the committee, the Government reversed Lords amendments with similar scope (see [section 3.1](#) above).

Real Living Wage

Amendments 4 to 7 to various clauses (Richard Burgon, Labour) would prevent contracting authorities from awarding contracts to suppliers unless they guarantee to pay at least the Real Living Wage to those involved in the delivery of a contract. **Amendment 8** would define the Real Living Wage. Similar amendments were debated in the committee (see [section 3.4](#)).

Human rights

Following Labour new clause 18 on procurement and human rights being defeated in committee stage, Florence Eshalomi (Labour) has tabled **new clause 14** with a similar scope. This would allow contracting authorities to choose not to buy goods or services from countries based on their human rights record (see [section 3.4](#)).

See also **new clause 16** tabled by Bob Seely on eradicating slavery and human trafficking in supply chains.

Exclusion grounds

The Labour Party has proposed several grounds of exclusion of suppliers. **Amendment 16** (Florence Eshalomi) proposes a new discretionary exclusion ground in Schedule 7 where a supplier (or connected person) has violated UK sanctions or export controls.

Following the removal of a Lords amendment on forced organ harvesting in the committee (see [section 3.1](#)), Marie Rimmer (Labour) has proposed a discretionary exclusion ground in Schedule 7 for suppliers involved in forced organ harvesting (**amendment 3**). The amendment has support from MPs representing both the position and opposition parties.

Amendment 18 (Florence Eshalomi) in Schedule 7 would give contracting authorities the discretion to exclude suppliers for significant breaches of the rights of staff unless they have “self-cleansed”, that is, have shown that the circumstances are not likely to recur.

Amendments 61 to 63 (Dame Margaret Hodges, Labour) would amend provisions on how contracting authorities consider whether a supplier is excluded or excludable.

Amendments 64 to 67 (Dame Margaret Hodges) would widen the scope of mandatory and discretionary grounds of exclusion from procurement with provisions for other criminal offences related to money laundering, bribery, fraud and sanction evasion.

Impact on environmental and climate targets

Amendment 60 (Caroline Lucas) would require the Government to report on how the national procurement policy statement affects meeting environmental and climate targets.

New clause 17 (Caroline Lucas) would require public contracts for the supply of food to be aligned with current nutritional guidelines and to include plant-based options.

Evaluation of contracts

Amendment 68 to clause 71 (John Penrose, Conservative) on the assessment of contract performance would require contracting authorities to publish a statement of the intended outcomes of contracts with a value exceeding £5 million. They would also be required to commission an independent evaluation into whether the contracts has achieved the desired outcomes.

Other themes

New clause 10 (Angela Rayner, Labour) would introduce a requirement for multinational companies bidding for projects with a value over £5 million to disclose and publish their tax payments in the UK.

New clause 11 (Angela Rayner) would give statutory footing to the requirement for contracting authorities to assess public interest when considering whether to outsource a service. An amendment with a similar scope (new clause 3) was rejected in the Public Bill Committee ([see section 3.4](#) above).

New clause 12 (Debbie Abrams, Labour) on protection of payments to subcontractors under construction contracts. It would, among other provisions, mandate the use of project bank accounts. In these accounts project funds are protected in the event of contractor insolvency.

Amendment 1 to clause 42 (Sarah Olney) is intended to prevent the future use of ‘VIP lanes’ for public contracts.

Amendment 2 to clause 44 (Angela Rayner) aims to implement a National Audit Office recommendation on transparency of emergency procurement and direct contract awards.

Amendment 17 (Florence Eshalomi) proposes to introduce a requirement for the government to report to Parliament regarding prompt payment to SMEs.

Annex 1: Members of the Public Bill Committee

Chairs: Clive Efford, David Mundell

Bhatti, Saqib (Meriden) (Con)
Blackman, Kirsty (Aberdeen North) (SNP)
Burghart, Alex (Parliamentary Secretary, Cabinet Office)
Clarke-Smith, Brendan (Bassetlaw) (Con)
Duguid, David (Banff and Buchan) (Con)
Eshalomi, Florence (Vauxhall) (Lab/Co-op)
Evans, Chris (Islwyn) (Lab/Co-op)
Fletcher, Nick (Don Valley) (Con)
French, Mr Louie (Old Bexley and Sidcup) (Con)
Gibson, Peter (Darlington) (Con)
Greenwood, Lilian (Nottingham South) (Lab)
Jones, Gerald (Merthyr Tydfil and Rhymney) (Lab)
Marson, Julie (Hertford and Stortford) (Con)
Randall, Tom (Gedling) (Con)
Russell-Moyle, Lloyd (Brighton, Kemptown) (Lab/Co-op)
Tracey, Craig (North Warwickshire) (Con)
Whitley, Mick (Birkenhead) (Lab)

Annex 2: Changes of the Bill's clause numbers

| Procurement Bill [HL]: Clause concordance table | | | | |
|---|---|--------------------------------------|---|---|
| HL Bill 4 (as introduced) | HL Bill 63 (as amended in Grand Committee) | HL Bill 75 (as amended on Report) | Bill 218 2022-23 (as brought from the House of Lords) | Bill 249 2022-23 (as amended in Public Bill Committee) |
| Part 1: Key definitions | | | | |
| | | 1 | 1 | 1 |
| 1 | 1 | 2 | 2 | 2 |
| 2 | 2 | 3 | 3 | 3 |
| 3 | 3 | 4 | 4 | 4 |
| 4 | 4 | 5 | 5 | 5 |
| 5 | 5 | 6 | 6 | 6 |
| 6 | 6 | 7 | 7 | 7 |
| 7 | 7 | 8 | 8 | 8 |
| 8 | 8 | 9 | 9 | 9 |
| 9 | 9 | 10 | 10 | 10 |
| Part 2: Principles and objectives | | | | |
| 10 | 10 | 11 | 11 | 11 |
| 11 | 11 | 12 | 12 | 12 |
| 12 | 12 | 13 | 13 | 13 |
| 13 | 13 | 14 | 14 | 14 |
| Part 3: Award of public contracts and procedures | | | | |
| Chapter 1: Preliminary steps | | | | |
| 14 | 14 | 15 | 15 | 15 |
| 15 | 15 | 16 | 16 | 16 |
| 16 | 16 | 17 | 17 | 17 |
| 17 | 17 | 18 | 18 | 18 |
| Chapter 2: Competitive award | | | | |
| 18 | 18 | 19 | 19 | 19 |
| 19 | 19 | 20 | 20 | 20 |
| 20 | 20 | 21 | 21 | 21 |
| 21 | 21 | 22 | 22 | 22 |
| 22 | 22 | 23 | 23 | 23 |
| 23 | 23 | 24 | 24 | 24 |
| 24 | (Transposed to 53) | (see 56) | (See 56) | (See 56) |

| | | | | |
|---|-----------------------------|-----------------------|-----------------------|-----------------------|
| 25 | 24 | 25 | 25 | 25 |
| 26 | 25 | 26 | 26 | 26 |
| 27 | 26 | 27 | 27 | 27 |
| 28 | 27 | 28 | 28 | 28 |
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| 31 | 30 | 31 | 31 | 31 |
| 32 | 31 | 32 | 32 | 32 |
| 33 | 32 | 33 | 33 | 33 |
| 34 | 33 | 34 | 34 | 34 |
| 35 | 34 | 35 | 35 | 35 |
| 36 | 35 | 36 | 36 | 36 |
| 37 | 36 | 37 | 37 | 37 |
| 38 | 37 | 38 | 38 | 38 |
| 39 | 38 | 39 | 39 | 39 |
| | | 40 | 40 | 40 |
| Chapter 3: Direct award | | | | |
| 40 | 39 | 41 | 41 | 41 |
| 41 | 40 | 42 | 42 | 42 |
| 42 | 41 | 43 | 43 | 43 |
| 43 | 42 | 44 | 44 | 44 |
| Chapter 4: Award under frameworks | | | | |
| 44 | 43 | 45 | 45 | 45 |
| | | 46 | 46 | 46 |
| 45 | 44 | 47 | 47 | 47 |
| 46 | 45 | 48 | 48 | 48 |
| 47 | 46 | 49 | 49 | 49 |
| Chapter 5: After award, standstill periods and notices | | | | |
| 48 | 47 | 50 | 50 | 50 |
| 49 | 48 | 51 | 51 | 51 |
| 50 | 49 | 52 | 52 | 52 |
| 51 | 50 | 53 | 53 | 53 |
| Chapter 6: General provision about award and procedures | | | | |
| 52 | 51 | 54 | 54 | 54 |
| 53 | 52 | 55 | 55 | 55 |
| | 53 transposed from 24 | 56 (as transposed) | 56 (as transposed) | 56 (as transposed) |
| 54 | 54 | 57 | 57 | 57 |
| 55 | 55 | 58 | 58 | 58 |
| 56 | 56 | 59 | 59 | 59 |
| 57 | 57 | 60 | 60 | 60 |
| 58 | 58 | 61 | 61 | 61 |
| 59 | 59 | 62 | 62 | 62 |
| | | | | 63 |
| 60 | 60 | 63 | 63 | 64 |

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|----|----|----|----|------------------------------------|
| 61 | 61 | 64 | 64 | Substituted by new clause 65 |
| | | 65 | 65 | - |
| | | | | 66 |

| Part 4: Management of public contracts | | | | |
|---|---------------------------|--------------------|--------------------|--------------------|
| 62 | 62 | 66 | 66 | 67 |
| 63 | 63 | 67 | 67 | 68 |
| 64 | 64 | 68 | 68 | 69 |
| 65 | 65 | 69 | 69 | 70 |
| 66 | 66 | 70 | 70 | 71 |
| 67 | 67 | 71 | 71 | 72 |
| 68 | 68 | 72 | 72 | 73 |
| 69 | 69 | 73 | 73 | 74 |
| 70 | Divided into 70 and 72 | 74 (and 76) | 74 (and 76) | 75 (and 77) |
| 71 | 71 | 75 | 75 | 76 |
| | 72 (as divided) | 76 (as divided) | 76 (as divided) | 77 (as divided) |
| 72 | 73 | 77 | 77 | 78 |
| | 74 | 78 | 78 | 79 |
| 73 | 75 | 79 | 79 | 80 |
| Part 5: Conflicts of interest | | | | |
| 74 | 76 | 80 | 80 | 81 |
| 75 | 77 | 81 | 81 | 82 |
| 76 | 78 | 82 | 82 | 83 |
| Part 6: Below-threshold contracts | | | | |
| 77 | 79 | 83 | 83 | 84 |
| 78 | 80 | 84 | 84 | 85 |
| | | 85 | 85 | 86 |
| 79 | 81 | 86 | 86 | 87 |
| 80 | 82 | 87 | 87 | 88 |
| Part 7: Implementation of international obligations | | | | |
| 81 | 83 | 88 | 88 | 89 |
| 82 | 84 | 89 | 89 | 90 |
| 83 | 85 | 90 | 90 | 91 |
| | | | | 92 |
| Part 8: Information and notices: general provision | | | | |
| 84 | 86 | 91 | 91 | 93 |
| 85 | 87 | 92 | 92 | 94 |
| 86 | 88 | 93 | 93 | 95 |
| 87 | 89 | 94 | 94 | 96 |
| 88 | 90 | 95 | 95 | 97 |
| | 91 | 96 | 96 | 98 |
| Part 9: Remedies for breach of statutory duty | | | | |

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|----|----|-----|-----|-----|
| 89 | 92 | 97 | 97 | 99 |
| 90 | 93 | 98 | 98 | 100 |
| 91 | 94 | 99 | 99 | 101 |
| 92 | 95 | 100 | 100 | 102 |
| 93 | 96 | 101 | 101 | 103 |
| 94 | 97 | 102 | 102 | 104 |
| 95 | 98 | 103 | 103 | 105 |
| | | | | 106 |

| Part 10: Procurement oversight | | | | |
|---|-----|--------------------|----------------------|-------------------------------------|
| 96 | 99 | 104 | 104 | 107 |
| 97 | 100 | 105 | 105 | 108 |
| 98 | 101 | 106 | 106 | 109 |
| Part 11: Appropriate authorities and cross-border procurement | | | | |
| 99 | 102 | 107 | 107 | 110 |
| 100 | 103 | 108 | 108 | 111 |
| 101 | 104 | 109 | 109 | 112 |
| 102 | 105 | 110 | 110 | 113 |
| 103 | 106 | 111 | 111 | 114 |
| Part 12: Amendments and repeals | | | | |
| 104 | 107 | 112 | 112 | 115 |
| 105 | 108 | 113 | 113 | 116 |
| 106 | 109 | 114 | 114 | 117 |
| 107 | 110 | 115 | 115 | 118 |
| Part 13: General | | | | |
| 108 | 111 | Replaced by 116 | 116 (as replaced) | Substituted by new clause 119 |
| 109 | 112 | 117 | 117 | 120 |
| 110 | 113 | 118 | 118 | 121 |
| 111 | 114 | 119 | 119 | 122 |
| 112 | 115 | 120 | 120 | 123 |
| 113 | 116 | 121 | 121 | 124 |
| 114 | 117 | 122 | 122 | 125 |
| 116 | 118 | 123 | 123 | 126 |
| 116 | 119 | 124 | 124 | 127 |

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