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## **THE SUBSIDY CONTROL BILL: UPDATE ON BILL PROGRESS**

My Lords,

I am writing to you to provide an update on the progress of the Subsidy Control Bill and bring to your attention the package of Government amendments which have been tabled today.

As you will be aware, the Bill completed its Committee stage in the House on 9 February and will move to Report stage on 22 March. I would like to take this opportunity to once again thank all Peers who have participated in the debates so far. As ever contributions have been considered and thoughtful.

As has been demonstrated throughout the Bill's passage, the legislation has been designed to reflect our strategic interests, strengthen our Union and help to drive economic growth and prosperity across the whole of the UK. The new regime will be flexible, agile, and tailored to support business growth and innovation, as well as help to maintain a competitive free market economy and protect the UK internal market.

I have listened to the arguments raised by colleagues in relation to the Bill and understand the strength of feeling with which they were made. I am therefore pleased to inform you of the Government amendments that I have tabled today, which I believe address these concerns. I hope that, with these adjustments, you will feel able to support the Bill as it continues its passage through the House.

This package of Government amendments covers a number of broad areas of the Bill, including transparency, Levelling Up, the monitoring reports published by the Subsidy Advice Unit and the recommendations set out by the Delegated Powers and Regulatory Reform Committee (DPRRC) in their report on the Bill published in January 2022. This also includes a number of consequential amendments to implement all of these.

More detail on the specific amendments that have been tabled in each of these areas is as follows.

## **Transparency**

Beginning with the Transparency provisions, the Government has tabled amendments which achieve the following:

- Lowering the upload threshold by 80% for all in-scheme subsidies from £500,000 to £100,000 and make Minimal Financial Assistance (MFA) and subsidies for Services of Public Economic Interest (SPEI) also subject to a £100,000 upload threshold.
- Reducing by half the period of time in which a non-tax subsidy or any scheme must be uploaded to the database, cutting it from six to three months starting with the confirmation of the decision to give the subsidy or make the scheme.
- Enabling changes, by regulations, to the transparency threshold and timeframe for uploading to the database if evidence suggests that the threshold and time limits on the face of the Bill are not appropriate. I intend to commit from the dispatch box at Report stage to reviewing these limits following the first Subsidy Advice Unit report.
- Requiring the Secretary of State to review the database in a manner and frequency the Secretary of State thinks appropriate.
- Permitting the Department for Business, Energy, and Industrial Strategy to provide statutory guidance to public authorities on pre-action information requests (which I will ensure is published in good time before the new regime comes into force).

My Department has today (15 March) published an updated Impact Assessment. This is based on recently available data sources which have allowed the Department to expand the scope of the analysis to include costs of all categories of subsidies at the £315k, £100k, £25k and £500 thresholds. The original analysis as published in the Bill Impact Assessment in June 2021 included cost estimates for a narrow set of alternative options, such as lowering the threshold for Minimal Financial Assistance subsidies.

The updated analysis utilises the recently available data to also estimate the cost impact of reducing the transparency thresholds for additional categories: in-scheme tax subsidies, in-scheme subsidies, Services of Public Economic Interest, and agricultural subsidies. The updated Impact Assessment shows that the administrative costs of the transparency requirements will be £1.6m over the ten-year appraisal period if thresholds are lowered to £100k across all categories of subsidies. The Government believes that while this is a significant increase in the anticipated burden on public authorities, the new £100,000 upload threshold provides the appropriate balance between ensuring transparency of subsidies most likely to be distortive and excess bureaucracy.

## **Levelling Up**

In relation to how the Bill interacts with the Government's Levelling Up agenda and regional disadvantage, we have tabled two amendments. The first amends Principle A to include "addressing local or regional disadvantage" to give further clarity that this would constitute an equity rationale for giving a subsidy.

The second amendment creates an exemption to the relocation prohibition (in Clause 18) for subsidies that target local or regional disadvantage. We do not expect this exemption to be used frequently. However, it will ensure that where the relocation of economic activity will help with levelling up, public authorities are able to give subsidies to achieve that -provided that this creates an overall reduction in social or economic disadvantage in the UK.

### **Subsidy Advice Unit**

The Government has also tabled an amendment to commit the Subsidy Advice Unit to publish its initial report within three years of the new regime coming into force, rather than after 5 years as previously proposed. The second report will be published after a further three years and, after that, regular reporting will take place at a minimal interval of every five years. Consequently, I have also tabled an amendment to ensure the powers in Part 4 of the Bill sunset after the second report (i.e., after six years) rather than the first (after five years, as the Bill currently stands). This will allow sufficient time for the regime to bed in and to make any necessary changes on the basis of more evidence as it becomes available.

### **Delegated Powers and Regulatory Reform Committee Report**

As you know, the DPRRC published a report on the powers the Bill delegates to Ministers on 13 January 2022. Officials and I have carefully considered this Report and listened to the points raised by Peers throughout the Bill's passage, and have tabled the following amendments to address the Committee's recommendations:

- Parliamentary scrutiny of streamlined subsidy schemes made under Clause 10 will be strengthened by giving either House the ability to annul any streamlined schemes after they have been made, in the same manner as regulations subject to the negative procedure.
- The direction-making power in Clause 16, in relation to the designation of marketable risk countries, will be changed to a power to make regulations for the same purpose.
- The powers provided in Clauses 25-27 to change definitions in secondary legislation will be removed.
- To address concerns raised by the DPRRC over the secrecy of the financial stability direction-making power in Clause 47, such directions will need to be published in due course following their creation. I also intend to make a dispatch box commitment at Report stage that the Treasury will discuss these directions with the relevant Committee chairs.

### **Devolution**

We continue to work closely with the Devolved Administrations (DAs) at both official and Ministerial level. I understand the differences of opinion here between the DAs and the Government, and their in-principle objection to subsidy control being a reserved matter. Despite the Government's best efforts, we have not been able to gain the support of the DAs in our attempts to secure Legislative Consent Motions. It is therefore with great regret that we have decided to proceed without legislative consent from the devolved legislatures.

It has never been our intention to proceed without consent in place, and our preferred approach throughout has always been to secure Legislative Consent Motions. Although we have been unable to align our positions fully on this occasion, these situations are clearly exceptional, and the UK Government will always carefully consider where devolved executive powers are altered. The Government remains fully committed to the Sewel Convention and the associated practices for seeking consent as set out in the Devolved Memorandum of Understanding and Devolution Guidance Notes. We will continue to seek legislative consent from the devolved legislatures when applicable.

I would like to emphasise our determination to continue to work collaboratively and transparently with the DAs on the development of the subsidy control regime and the guidance and regulations which will support it. To underline this commitment, we are developing a Memorandum of Understanding with the DAs, to formalise the process for future engagement after the Bill has passed and we move towards implementation of the new regime. My Department has recently shared a draft Memorandum of Understanding with DA officials, and our discussions with them are ongoing on this matter.

I am also happy to commit that my Department will carry out public consultations on both the regulations setting out which subsidies will be referred to the Subsidy Advice Unit, and the statutory guidance on the new regime as a whole. We will continue our close engagement with the DAs on developing these materials before issuing the consultation, and they will also be able to respond formally to our public consultations.

I reiterate my gratitude to all Peers who have contributed to the debates on this Bill so far and look forward to further such discussions as it progresses through the House. I will also be placing a copy of this letter to the libraries of the House.

Should your Lordships have any questions regarding the Bill, please do not hesitate to contact me or my officials who can be contacted on the following email address: [subsidycontrolbill@beis.gov.uk](mailto:subsidycontrolbill@beis.gov.uk).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Martin Callanan', with a stylized flourish at the end.

**Lord Callanan**

**Minister for Business, Energy and Corporate Responsibility**