

**SANCTIONS AND ANTI-MONEY LAUNDERING BILL**  
**AMENDMENTS TO BE MOVED ON REPORT**

Clause 1, page 1, line 8 leave out "appropriate" and insert "necessary"

Clause 7, page 8, line 45 leave out "appropriate" and insert "necessary"

Clause 14, page 12, line 26 add at end -- "(d) provide for the procedure to be followed for an application for an exception or licence."

Clause 20, page 16, line 43 leave out "3 years" and insert "one year"

Clause 30, page 21, line 20 after "request" insert "and must give reasons for the decision made."

## **SANCTIONS AND ANTI-MONEY LAUNDERING BILL**

### **AMENDMENT TO BE MOVED ON REPORT**

Clause 1, page 1, line 8 leave out “appropriate” and insert “necessary”

#### Effect

This amendment ensures that a Minister can only exercise regulation making powers if the Minister considers those regulations to be necessary

#### Reason

The regulation making powers in the bill are very wide. So far as the scope of the powers is concerned, we believe there should be an express provision that the powers should be used only so far as necessary to create a sanctions regime in the UK’s domestic legal framework. The current standard in the bill is that the Minister may make regulations which the Minister considers ‘appropriate’. This is a very subjective standard whereas requiring the Minister to consider that the regulations are necessary is more objective and justifiable.

Lord Judge highlighted the views of the Constitution Committee of the House of lords when this amendment was debated at Committee Stage, “Given that the purpose of the Bill is to address the need for domestic powers to impose, amend and revoke sanctions after Brexit, it is important to ensure that there are sufficient safeguards and there is adequate parliamentary scrutiny to make the delegated powers constitutionally acceptable”.

Lord Pannick also referred to the report of the Delegated Powers and Regulatory Reform Committee paragraph 18, which stated:

“As drafted, clause 1(1) allows the Minister to make sanctions regulations where the Minister considers that doing so is ‘appropriate’ to achieve one of the purposes listed in that clause. In the light of the width and significance of the powers, we take the view that the Minister should only have power to make sanctions regulations if doing so is considered ‘necessary’ to achieve the purpose for which they are made”.

We note that the Minister, Lord Ahmad responded that Clause 1 does not give Ministers unrestricted discretion to impose whatever sanctions they may wish. However this does not answer the point raised by the proposed amendment which is aimed at requiring Ministers to be satisfied that it is necessary to make the regulations after the policy objective has been ascertained. We are hopeful that the Minister shall have reflected on the wording of clause 1 and accept this amendment when the bill’s scrutiny resumes.

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Clause 7, page 8, line 45 leave out "appropriate" and insert "necessary"

Consequential amendment

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### **AMENDMENT TO BE MOVED ON REPORT**

Clause 14, page 12, line 26 add at end -- "(d) provide for the procedure to be followed for an application for an exception or licence."

#### Effect

This amendment ensures that the regulations will include as procedure for applying for an exception or for a licence.

#### Reason

The regulations under clause 14 may:

"(a) create exceptions to any prohibition or requirement imposed by the regulations;  
(b) provide for a prohibition imposed by the regulations not to apply to anything done under the authority of a licence issued by an appropriate Minister specified in the regulations;  
(c) provide for a requirement imposed by the regulations to be subject to such exceptions as an appropriate Minister specified in the regulations may direct".

We agree with the general principle that there should be provision for exceptions and licences as detailed under clause 14. However there is no provision for regulations to provide for the application procedure for an exception or licence. We believe that this would be a useful addition to the clause 14 for persons seeking an exception or a licence and for those advising them.

In responding to this amendment raised by Baroness Northover, the Minister, Lord Ahmad responded that "I hope the Committee will be reassured that, given the number of departments involved and the many different derogations, exemptions and grounds for licensing that exist, the relevant application procedures in each sanctions regulation are all contained in guidance. This guidance is publicly accessible to all via various departmental websites. To reproduce them in the regulations themselves would certainly create a substantial administrative burden and greatly lengthen the instruments, so we do not think it is necessary to do that". In fact providing for the procedures to be set out in statute could reduce the number of procedures, bring clarity and enhance transparency rather than create an administrative burden and we encourage the Minister to reconsider this approach.

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### **AMENDMENT TO BE MOVED ON REPORT**

Clause 20, page 16, line 43 leave out "3 years" and insert "one year"

#### Effect

This amendment reduces the review period under clause 20 from 3 years to 1 year.

#### Reason

We note that the review period under clause 20(4) is a period of 3 years beginning with the date when the Regulations are made and each further period of three years beginning with the date of completion of the review.

In our view there should be a shorter review period. Not only for the reasons stated below by Lord Pannick but also because under the EU sanctions regime a periodic review is conducted every 6 months.

As Lord Pannick highlighted at the Committee stage:

“The appropriate Minister is required to consider any designation of a person every three years. That is far too long a period given the gravity of the consequences of designating a person” and ... “there a limited number of people are involved here, and surely the time and the resources are justified by the significance of the sanctions imposed. It is right and proper that sanctions of such significance should be reviewed more often than every three years”.

Lord Pannick's argument highlights a potential problem with the proposed review period of 3 years in the bill and we agree that a one year review would be the best period to apply under this clause.