

# Scottish National Investment Bank Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 25  
Long Title

Schedule

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1A

#### Derek Mackay

- 4 In section 1A, page 1, line 18, leave out <low carbon> and insert <net-zero emissions>

### Section 2

#### Maurice Golden

- 30 In section 2, page 2, leave out lines 4 to 8 and insert—
- <( ) investing to promote environmental wellbeing, and in particular—
- (i) support the transitions required to meet the net-zero emissions target (as defined in section A1 of the Climate Change (Scotland) Act 2009),
- 5 (ii) support the proposals and policies regarding circular economy initiatives set out in the latest climate change action plan to be laid before the Scottish Parliament under section 35 of that Act,>

#### Claudia Beamish

- 30A As an amendment to amendment 30, line 7, at end insert—
- <( ) promote biodiversity,>

#### Jackie Baillie

- 31 In section 2, page 2, line 10, at end insert—
- <( ) promoting collective bargaining (as defined in section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992),>

#### Jackie Baillie

- 32 In section 2, page 2, line 13, at end insert—
- <( ) promoting and developing the activities of enterprises which—
- (i) promote fair work (construed in accordance with section 14A), and

- (ii) pay their employees a living wage (construed in accordance with section 15(7) of the Procurement Reform (Scotland) Act 2014),>

**Jackie Baillie**

- 33 In section 2, page 2, line 17, leave out <promoting the advancement of> and insert <advancing>

**After section 2**

**Derek Mackay**

- 5 After section 2, insert—

**<Ethical investment standards**

The articles of association must provide that the Bank’s board is responsible for the Bank—

- (a) having ethical investment standards which align with the Bank’s main object and ancillary objects as set out in its articles of association and its strategic missions, and
- (b) having in place processes to ensure that the Bank’s investment decisions are taken in accordance with those standards.>

**Rhoda Grant**

- 34 After section 2, insert—

**<Minimum ethical standards for investments document**

- (1) The articles of association must provide that the Bank is to prepare a document setting out minimum ethical standards for investments by the Bank.
- (2) A document prepared by the Bank in accordance with subsection (1) must be—
  - (a) published, and
  - (b) laid before the Scottish Parliament.>

**Section 2A**

**Derek Mackay**

- 6 In section 2A, page 2, line 20, leave out <to be known as a “balanced> and insert <“the balanced>

**Derek Mackay**

- 7 In section 2A, page 2, line 22, leave out <a document under subsection (1)> and insert <the balanced scorecard>

**Section 3**

**Neil Findlay**

- 8 In section 3, page 2, line 35, at end insert—

- <( ) However, the articles of association must provide that the Bank may not give financial assistance to a company which—
- (a) enters into a tax avoidance arrangement or series of arrangements (construed in accordance with section 63 of the Revenue Scotland and Tax Powers Act 2014), or
  - (b) carries out tax evasion.>

**Neil Findlay**

- 9 In section 3, page 2, line 35, at end insert—

<( ) However, the articles of association must provide that the Bank may not give financial assistance to a company which does not pay its employees a living wage (construed in accordance with section 15(7) of the Procurement Reform (Scotland) Act 2014).>

**Neil Findlay**

- 10 In section 3, page 2, line 35, at end insert—

<( ) However, the articles of association must provide that the Bank may not give financial assistance to a company which employs a worker on a zero hours contract (within the meaning of section 27A of the Employment Rights Act 1996).>

**Neil Findlay**

- 11 In section 3, page 2, line 35, at end insert—

<( ) However, the articles of association must provide that the Bank may not give financial assistance to a company which enters into a contract with an umbrella company (within the meaning of section 615 of the Corporation Tax Act 2010).>

**Neil Findlay**

- 12 In section 3, page 2, line 35, at end insert—

<( ) However, the articles of association must provide that the Bank may not give financial assistance to a company which does not recognise trade unions in accordance with section 70A of the Trade Union and Labour Relations (Consolidation) Act 1992.>

**Jackie Baillie**

- 1 In section 3, page 3, line 10, at end insert—

<( ) For the avoidance of doubt, the articles of association may provide that the Bank may give financial assistance to a third sector body (as defined by section 37 of the Community Justice (Scotland) Act 2016).>

**Section 6**

**Andy Wightman**

- 2 In section 6, page 3, line 25, leave out <all of the Bank’s directors> and insert <—

- (a) at least two non-executive directors are to be appointed by Scottish local authorities, and
- (b) the remaining directors>

**Rhoda Grant**

- 13 In section 6, page 3, line 29, leave out subsections (4) and (5)

**Section 8**

**Neil Findlay**

- 14 In section 8, page 4, line 31, after second <to> insert <—  
( )>

**Neil Findlay**

- 15\* In section 8, page 4, line 32, at end insert <, and  
( ) subsection (2).  
(2) The articles of association must provide that remuneration is to—  
(a) offer a defined benefit pension scheme,  
(b) conform to fair work principles (construed in accordance with section 14A),  
(c) be consistent with any guidance issued by the Scottish Ministers about levels of pay for individuals employed by Scottish public authorities listed in schedule 5 of the Freedom of Information (Scotland) Act 2002.>

**Section 9A**

**Derek Mackay**

- 16 In section 9A, page 5, line 9, leave out <appoint> and insert <establish and maintain>

**Derek Mackay**

- 17 In section 9A, page 5, line 10, leave out <objectives> and insert <objects>

**Derek Mackay**

- 18 In section 9A, page 5, line 15, leave out from <(within> to <1992)> in line 16

**Derek Mackay**

- 19 Move section 9A to after section 19

**After section 9A**

**Jackie Baillie**

- 35 After section 9A, insert—  
<**Gender equality strategy**  
(1) The articles of association must provide that—  
(a) the Bank is to prepare, and from time to time update, a gender equality strategy,

- (b) in doing those things the Bank is to consult persons with experience in or knowledge of the formulation, implementation and evaluation of policies intended to tackle gender inequality,
  - (c) the Bank is to make its gender equality strategy publicly available,
  - (d) the Bank’s gender equality strategy may be in any form that the Bank considers appropriate and (in particular) may be part of another document.
- (2) The articles of association must provide that the Bank’s gender equality strategy is to set out—
- (a) what the Bank is committed to doing to advance gender equality in Scotland (in particular through its investing and staffing practices),
  - (b) what information the Bank intends to collect for the purpose of carrying out the evaluations required by section (*Report on gender equality strategy*)(1).>

## Section 11

### Andy Wightman

3 In section 11, page 5, line 25, at end insert—

<(1A) The Scottish Ministers must set a strategic mission for the Bank stating that the Bank is to undertake investments that will facilitate the transition to a net-zero emissions economy.

(1B) In subsection (1A), “net-zero emissions economy” means an economy that provides for the net-zero emissions target (as defined in section A1 of the Climate Change (Scotland) Act 2009) to be met.>

### Derek Mackay

20 In section 11, page 5, line 26, leave out subsections (2) to (7) and insert—

<( ) The Scottish Ministers set the Bank strategic missions by sending it a document—

- (a) describing the socio-economic or environmental challenges that the Bank is to seek to address, and
- (b) explaining how, in the Ministers’ opinion, addressing those challenges relates to the Bank’s main object and ancillary objects as set out in its articles of association.

( ) The latest document sent to the Bank under this section supersedes the previous one and so, by sending the Bank a new document under this section, the Scottish Ministers can—

- (a) set a new strategic mission for the Bank,
- (b) modify a strategic mission, or
- (c) bring a strategic mission to an end.

( ) After sending the Bank a document under this section, the Scottish Ministers must—

- (a) lay before the Scottish Parliament—
  - (i) a copy of the document, and
  - (ii) a statement setting out how the terms of the document sent to the Bank were affected by the responses to the public consultation carried out in accordance with section (*Requirement to consult in relation to missions*), and

- (b) make a copy of both the document and the statement publicly available.>

**After section 11**

**Derek Mackay**

**21** After section 11, insert—

**<Requirement to consult in relation to missions**

- (1) Before sending the Bank a document under section 11 which would set, modify or bring to an end a strategic mission, the Scottish Ministers must consult publicly about it.
- 5 (2) A public consultation under subsection (1) must be carried out over a period of at least 40 days beginning on the day that the Scottish Ministers lay before the Scottish Parliament a statement describing their proposal.
- (3) In calculating the period of 40 days mentioned in subsection (2), no account is to be taken of any time during which the Parliament is—
- 10 (a) dissolved, or
- (b) in recess for more than 4 days.
- (4) For the purpose of this section, it is immaterial that anything done by way of public consultation was done before the Bill for this Act was passed or after that but before this section comes into force.>

**Dean Lockhart**

**21A** As an amendment to amendment 21, line 4, after <must> insert <—

- (a) first consult, and seek to reach agreement with, the Bank’s board about their proposal to do so, and
- (b) then>

**Dean Lockhart**

**21B** As an amendment to amendment 21, line 11, at end insert—

- <( ) Despite subsection (1)(a), the Bank’s board need not be consulted—
- (a) where the change that the Scottish Ministers propose making was proposed to them by the Bank under section (*Proposals from the Bank about its missions*),
- (b) in relation to the first document sent to the Bank under section 11.>

**Derek Mackay**

**22** After section 11, insert—

**<Proposals from the Bank about its missions**

- (1) Subsection (2) applies when the Scottish Ministers receive from the Bank a valid proposal that they should change the Bank’s strategic missions.
- (2) Within 28 days of receiving the proposal, the Scottish Ministers must write to the chair of the Bank’s board stating—

- (a) whether the Scottish Ministers will consult under section (*Requirement to consult in relation to missions*) about making the proposed change, and
  - (b) the reasons for that decision.
- (3) A proposal is valid for the purpose of subsection (1) if it is—
- (a) in writing, and
  - (b) explains—
    - (i) why the proposal is being made, and
    - (ii) in the case of a proposal to set a new mission or modify one, how that proposed change relates to the Bank’s main object and ancillary objects as set out in its articles of association.>

## Section 12

### Derek Mackay

- 23 In section 12, page 6, line 37, leave out <11(3)> and insert <11>

## After section 13

### Rhoda Grant

- 36 After section 13, insert—

#### <Report on ethical standards of investments

The Bank must, at the end of each financial year, publish a report setting out—

- (a) whether any of its investments have not met the minimum ethical standards set out in section (*Minimum ethical standards for investments document*)(1),
- (b) the reasons for any of its investments not meeting those minimum ethical standards, and
- (c) what action it will take as a result.>

### Jackie Baillie

- 37 After section 13, insert—

#### <Report on gender equality strategy

- (1) At least every 2 years, the Bank must prepare and lay before the Scottish Parliament a report evaluating, in relation to the period since the last report was prepared—
- (a) the extent to which the Bank has fulfilled the commitments in its gender equality strategy,
  - (b) the extent to which the fulfilment of each commitment (insofar as it has been fulfilled) has made the contribution towards advancing gender equality in Scotland that the Bank intended it should, and
  - (c) whether the things that the Bank has done to fulfil the commitments have affected differently women who share a relevant protected characteristic and women who do not share it.

- (2) In subsection (1)(c), “a relevant protected characteristic” is a characteristic mentioned in section 149(7) of the Equality Act 2010.
- (3) A report under this section may be in any form that the Bank considers appropriate and (in particular) may be part of another document.
- (4) The first report under this section—
  - (a) is to be laid before the Parliament within 2 years of the day on which the Bank’s gender equality strategy is first made publicly available, and
  - (b) is to relate to the period beginning on that day.>

## **Section 14**

### **Derek Mackay**

- 24** In section 14, page 7, line 38, leave out <mission statement> and insert <strategic missions>

### **Derek Mackay**

- 25** In section 14, page 8, line 1, leave out <framework the Scottish Ministers prepare and publish> and insert <indicators specified by the Scottish Ministers when appointing a person to carry out the review in question>

## **After section 14**

### **Jackie Baillie**

- 38** After section 14, insert—
- <Equal pay review**
- (1) The Bank must, from time to time, conduct a review to ensure that it is providing equal pay for equal work (an “equal pay review”).
  - (2) The Bank must report to the Scottish Ministers on the findings of an equal pay review.
  - (3) A report under subsection (2) must set out—
    - (a) what the scope of the review was,
    - (b) how the Bank has collected data to inform the findings of the review,
    - (c) whether the review has found any differences in pay between any members of staff of the Bank doing equal work,
    - (d) what the reasons are for any such differences, and
    - (e) what steps the Bank will take as a result of the findings of the review.>

## **Section 19**

### **Derek Mackay**

- 26** In section 19, page 9, line 26, leave out from <(subject> to <2018)> in line 27



**Derek Mackay**

27 In section 19, page 9, line 29, at end insert—

<as they form part of the law of Scotland and as modified by the law of Scotland from time to time.>

**After section 19**

**Rhoda Grant**

28 After section 19, insert—

**<Exercise of power to appoint non-executive directors**

- (1) In appointing the Bank’s non-executive directors, the Scottish Ministers must have regard to the desirability of ensuring that the non-executive directors (as a whole) have experience or knowledge of the issues facing workers and businesses in Scotland.
- (2) In considering, for the purpose of subsection (1), the particular knowledge or experience that the non-executive directors (as a whole) should have, the Scottish Ministers must consult—
  - (a) persons appearing to them to represent trade unions operating in Scotland, and
  - (b) persons appearing to them to represent businesses operating in Scotland.>

**Schedule**

**Derek Mackay**

29 In the schedule, page 11, line 19, leave out from <Scottish> to end of line 20 and insert <the Convener of the School Closure Review Panels insert—

“a non-executive director of the Scottish National Investment Bank p.l.c.”.>



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