

National Security & Investment Act

Guidance on new rules for businesses and investors

November 2021

Context

The National Security and Investment Act was first published on 11 November 2020, received Royal Assent on 29th April 2021 and comes into effect on 4th January 2022. It has far-reaching implications for data centre operators, customers, developers and investors with interests in the UK market.

The Act requires particularly sensitive acquisitions to be approved by Government before they are completed. Government will be able to impose certain conditions on an acquisition and, in rare instances, may unwind or block an acquisition completely. The provisions also furnish businesses and investors with predictable, legally defined timelines and processes for decisions on acquisitions.

The Investment Security Unit – a dedicated hub that sits within the business department – will run the investment screening and provide a single point of contact for businesses wishing to understand the Act and notify the government about acquisitions.

Essentially the Act extends the government's power to scrutinise acquisitions, mergers and other transactions in the interests of national security and aligns us more closely with other countries like Germany and the USA.

Further guidance published

On 15th November 2021 further Government guidance was published to help businesses and investors prepare for the new rules regarding acquisitions coming into effect on 4th Jan 2022. This [guidance](#):

- Explains the types of acquisition covered by the new rules (details [here](#))
- Sets out which areas of the economy require mandatory notification
- Enables parties to understand
 - whether they need to tell Government about an acquisition
 - how to notify Government – submitting a notification
 - what to expect when going through the notification and assessment process. This is a substantial update to the existing NSI [guidance](#).

Other information can be found [here](#).

Laying further secondary legislation

Alongside publication of the guidance, two pieces of secondary legislation were laid on Monday 15th November. These are:

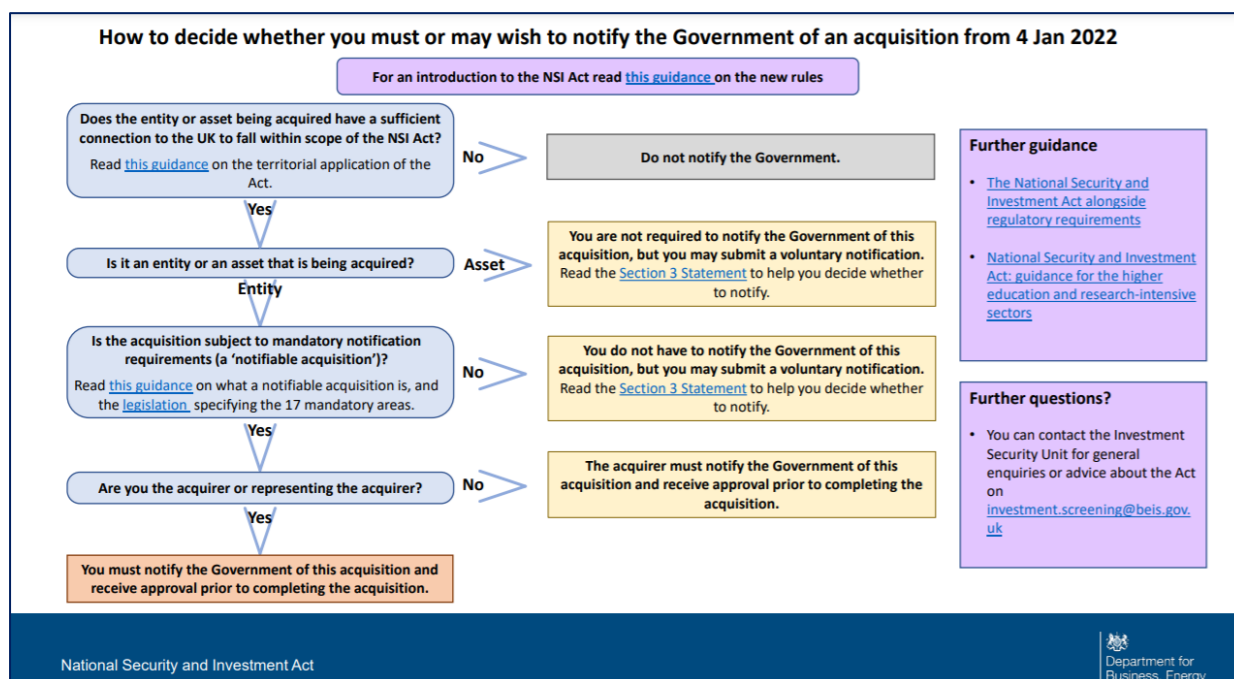
- The Procedure for Service Statutory Instrument, which sets out how the Government sends and receives documents under the Act (details [here](#)).
- The Form and Content of Notification Forms Statutory Instrument, which sets out what information is required in the notification forms parties can submit to the Government under the Act (details [here](#)).

Section 3 Statement (outlining Policy Intent)

The [Section 3 Statement](#) sets out how the Secretary of State expects to exercise the power to give a call-in notice, as set out in section 3 of the NSI Act. It was laid in Parliament and published on 2 November 2021 to help businesses and investors understand whether their acquisitions are likely to be called in. The Statement also includes the areas of the economy in which the Government believes qualifying acquisitions are most likely to be called in, particularly the areas of the economy defined by regulations under section 6 of the Act and the risk factors that the Government will consider when assessing an acquisition. These risk factors are the 'target risk,' the 'acquirer risk,' and the 'control risk'.

Business decision making diagram

Please refer to [this](#) guide (extract below) to show you how to decide whether you must or may wish to notify the Government of an acquisition from 4 Jan 2022 and what published guidance will help you at each stage.



Further information and guidance

- Guidance: <https://www.gov.uk/government/collections/national-security-and-investment-act>
- NSIA Guidance on Notifiable Acquisitions: <https://www.gov.uk/government/publications/national-security-and-investment-act-guidance-on-notifiable-acquisitions>
- NSIA Guidance on Acquisitions: <https://www.gov.uk/guidance/national-security-and-investment-act-guidance-on-acquisitions>
- Section 3 Statement: <https://www.gov.uk/government/publications/national-security-and-investment-statement-about-exercise-of-the-call-in-power>
- Secondary Legislation: procedure for service: <https://www.legislation.gov.uk/ukxi/2021/1267/contents/made>
- Secondary Legislation: prescribed form and content of notices: <https://www.legislation.gov.uk/ukxi/2021/1272/made>
- Business Decision Making Diagram: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1033579/nsi-process-flowchart.pdf
- This [Government press release](#) provides a useful overview and Institute of Chartered Accountants of England and Wales (ICAEW) is running an event on 1st December – 9.30-11am, relating to NSIA that you might find useful: You can attend in person or online: details are [here](#).
- Data Centre Index: <https://www.techuk.org/data-centres-programme/data-centres-resource-index.html>

Contacts

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