

# Trade Agreements (Exclusion of National Health Services) Bill

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**B I L L**

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Exclude requirements relating to National Health Services procurement, delivery or commissioning from international trade agreements; to require the consent of the House of Commons and the devolved legislatures to international trade agreements insofar as they relate to the National Health Services of England, Scotland and Wales and Health and Social Care in Northern Ireland; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Trade agreement conditions**

Her Majesty’s Government must not sign an international trade agreement unless—

- (a) the National Health Services requirements condition; and
- (b) the legislatures condition

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are both met.

**2 National Health Services requirements condition**

(1) The National Health Services requirements condition is that the international trade agreement—

- (a) places no requirements on a health service body relating to the procurement of goods or services;
- (b) explicitly excludes any health service body from any additional future such requirements; and
- (c) contains no provisions relating to the delivery or commissioning of health and care services by a health service body.

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(2) In this section, “requirements” include—

- (a) investor protection mechanisms;
- (b) investor-state dispute resolution mechanisms; and

- (c) provisions relating to the pricing, selection and listing of pharmaceuticals.

### 3 Legislatures condition

- (1) The legislatures condition is that a Motion of the form in subsection (3) has been passed by – 5
- (a) the House of Commons,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly.
- (2) A Minister must move a Motion in their respective legislature of the form in subsection (3) – 10
- (a) within 14 days of the publication of an independent report under section 4; or
  - (b) if there are no sitting days over that period, at the earliest opportunity.
- (3) The form of the Motion is – 15
- (a) in the House of Commons, “That this House consents to the trade agreement [details of the trade agreement] insofar as it affects the National Health Service in England”;
  - (b) in the Scottish Parliament, “That the Parliament consents to the trade agreement [details of the trade agreement] insofar as it affects the National Health Service in Scotland”;
  - (c) in Senedd Cymru, “That Senedd Cymru consents to the trade agreement [details of the trade agreement] insofar as it affects the National Health Service in Wales”;
  - (d) in the Northern Ireland Assembly, “That this Assembly consents to the trade agreement [details of the trade agreement] insofar as it affects Health and Social Care in Northern Ireland”. 20 25

### 4 Independent reports

- (1) The Secretary of State must commission an independent report on any trade agreement for which it is seeking the consent of the devolved legislatures under this section. 30
- (2) Each report under subsection (1) must be laid before –
- (a) Parliament by the Secretary of State;
  - (b) the Scottish Parliament by the Scottish Ministers;
  - (c) Senedd Cymru by the Welsh Ministers; and
  - (d) the Northern Ireland Assembly by a Northern Ireland department. 35
- (3) Each report under subsection (1) must contain an assessment of the effects and potential effects of the trade agreement on the National Health Services.
- (4) In this section, “an independent report” means a report prepared by a person who is independent of the Government of the United Kingdom. 40

### 5 Interpretation

In this Act –

“free trade agreement” means an agreement that is or was notifiable under –

(a) paragraph 7(a) of Article XXIV of GATT, or

(b) paragraph 7(a) of Article V of GATS;

“GATS” means the General Agreement on Trade in Services, part of Annex 1B to the WTO Agreement (as modified from time to time); 5

“GATT” means the General Agreement on Tariffs and Trade, part of Annex 1A to the WTO Agreement (as modified from time to time);

“health service body” has the same meaning as in section 204 of the Data Protection Act 2018; 10

“international trade agreement” means –

(a) a free trade agreement, or

(b) an international agreement that relates to trade, other than a free trade agreement;

“the National Health Services” means the National Health Services of Scotland, Wales, and England and Health and Social Care in Northern Ireland; 15

“the WTO Agreement” means the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.

## **6 Commencement, extent and short title** 20

- (1) This Act comes into force on the day on which it is passed.
- (2) This Act extends to England and Wales, Scotland and Northern Ireland.
- (3) This Act may be cited as the Trade Agreements (Exclusion of National Health Services) Act 2020.

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To exclude requirements relating to National Health Services procurement, delivery or commissioning from international trade agreements; to require the consent of the House of Commons and the devolved legislatures to international trade agreements insofar as they relate to the National Health Services of England, Scotland and Wales and Health and Social Care in Northern Ireland; and for connected purposes.

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