
Committee Stage: Tuesday 12 July 2022

Northern Ireland Protocol Bill (Amendment Paper)

This document lists all amendments tabled to the Northern Ireland Protocol Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

☆ Amendments which will comply with the required notice period at their next appearance.

New Amendments: 44 and 45

CLAUSES 1 TO 3, 15 AND 16; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Sir Robert Neill

1

Clause 1, page 1, line 3, at end insert—

“(za) comes into effect only in accordance with section 26(2A) to (2D);”

Member’s explanatory statement

This amendment is linked to Amendment 2 to clause 26, which would require parliamentary approval for bringing into force any provisions of this Act.

Layla Moran
Mr Alistair Carmichael
Stephen Farry

26

☆ Clause 1, page 1, line 3, at end insert —

“(za) requires Ministers of the Crown to set out a legal justification for altering the effect of the Northern Ireland Protocol in domestic law”

Member’s explanatory statement

This is a paving amendment for NC8.

Mr David Lammy 31
Peter Kyle
Stephen Doughty

☆ Clause 1, page 1, line 4, leave out paragraphs (a) and (b)

Mr David Lammy 32
Peter Kyle
Stephen Doughty

☆ Clause 1, page 1, line 14, leave out from “Protocol” to end of line 15

Colum Eastwood 5
Claire Hanna
Stephen Farry

Clause 1, page 1, line 15, at end insert—

“(e) provides powers to Ministers of the Crown that may be exercised only after good faith negotiations with the EU (through the mechanisms provided for in the Northern Ireland Protocol) have been exhausted and only with the approval of both Houses of Parliament and, where relevant, the consent of the Northern Ireland Assembly.”

Member’s explanatory statement

This amendment would give primacy to a negotiated outcome between the UK and the EU and reflect the consent required by both Houses of Parliament and, where relevant, the Northern Ireland Assembly for powers conferred by the Act to be exercised.

Stephen Farry 25
Layla Moran
Mr Alistair Carmichael

☆ Clause 2, page 1, line 17, at end insert—

“(A1) This section is subject to section (*Limitation of general implementation of the Northern Ireland Protocol: approval of Northern Ireland Assembly*).”

Member’s explanatory statement

This paving amendment is linked to NC7.

Stephen Farry 23
 Layla Moran
 Mr Alistair Carmichael
 Colum Eastwood
 Claire Hanna

☆ Page 2, line 17, leave out Clause 2

Colum Eastwood 6
 Claire Hanna
 Stephen Farry

Clause 15, page 8, line 47, at end insert—

“(1A) In this section “necessary” means the existence of a situation of grave and imminent peril that relates to one or more of the permitted purposes.”

Member’s explanatory statement

This amendment defines the standard against which a Minister can exercise powers conferred by clause 15.

Colum Eastwood 14
 Claire Hanna
 Stephen Farry

☆ Clause 15, page 8, line 47, at end insert—

“(1A) In this section “unpermitted consequence” means an outcome that would constitute a risk to or detrimental on—

- (a) Strand Two of the Belfast Agreement including the North-South Ministerial Council, cooperation and action under the Council or consultation and agreements in all its formats, areas of cooperation and agreed implementation bodies;
- (b) Strand Three of the Belfast Agreement, the British-Irish Council and cooperation, common policies or common actions on matters of mutual interest for relevant administrations including on issues, and in ways, referenced in that section of the Agreement;
- (c) the single electricity market;
- (d) Northern Ireland’s access to the EU Single Market to the fullest extent permitted by the Protocol;
- (e) continuing opportunities for institutions, economic operators and civic interests in Northern Ireland to access and participate in EU programmes and frameworks as permitted under and/or alongside the Protocol;
- (f) Northern Ireland’s access to trade deals between the EU and third countries to the fullest extent permitted by the Protocol;

- (g) the productivity of businesses in Northern Ireland and the competitive marketability of goods produced there (through costs or complications associated with possible dual route regulatory compliances)."

Member's explanatory statement

This amendment provides that a Minister cannot exercise powers for the permitted purposes in Clause 15 in terms that could entail harmful impact on dimensions of the Good Friday Agreement and/or economic interests of Northern Ireland.

Stella Creasy

27

- ☆ Clause 15, page 8, line 47, at end insert—

"(1A) But subsection (1) is subject to section (*Excluded provision: Parliamentary approval*)."

Member's explanatory statement

This is a paving amendment for NC9.

Hilary Benn

11

- ☆ Clause 15, page 9, line 1, leave out subsection (2)

Member's explanatory statement

This amendment would remove the Minister's power to treat as excluded provision for a permitted purpose any provision of the Northern Ireland Protocol or any related provision of the EU Withdrawal Agreement.

Colum Eastwood
Claire Hanna
Stephen Farry

7

Clause 15, page 9, line 8, after "if" insert "it does not cause one or more unpermitted consequence and if"

Colum Eastwood
Claire Hanna
Stephen Farry

8

Clause 15, page 9, line 15, at end insert—

"(d) Article 18 (Democratic Consent in Northern Ireland)"

Member's explanatory statement

This amendment adds Article 18 (Democratic Consent in Northern Ireland) of the Northern Ireland Protocol to the list of articles that a Minister of the Crown cannot exercise powers conferred by subsection (2) to provide cease to have effect in the United Kingdom to any extent.

Colum Eastwood 9
 Claire Hanna
 Stephen Farry

Clause 15, page 9, line 15, at end insert—

“(3A) A Minister of the Crown may not exercise the power conferred by subsection (2) until and unless the Minister has laid a report before both Houses of Parliament setting out the Minister of the Crown’s assessment of the necessity to exercise the power for, or in connection with, one or more of the permitted purposes and to state the one or more permitted purposes in question.”

Member’s explanatory statement

This amendment places a reporting obligation on a Minister exercising powers conferred by section 15 to detail an assessment of why the regulations are necessary and to state the permitted purpose(s) relevant to that assessment.

Colum Eastwood 10
 Claire Hanna
 Stephen Farry

Clause 15, page 9, line 15, at end insert—

“(3A) A Minister of the Crown may not exercise the power conferred by subsection (2) before full consultation on proposed changes with, in particular—

- (a) the Northern Ireland Human Rights Commission,
- (b) the Equality Commission for Northern Ireland,
- (c) the Committee of representatives of the Human Rights Commission of Northern Ireland and Ireland, and
- (d) persons whom the Minister considers appropriate as representatives of business, trade, economic interests and civic groups.”

Richard Thomson 29

☆ Page 8, line 27, leave out Clause 15

Mr David Lammy 40
 Peter Kyle
 Stephen Doughty

☆ Clause 16, page 9, line 19, leave out “the Minister considers appropriate” and insert “is necessary”

Member's explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Richard Thomson

30

☆ Page 9, line 18, leave out Clause 16

Colum Eastwood
Claire Hanna
Stephen Farry

NC1

To move the following Clause—

“Maintaining levels of environmental protection

- (1) A Minister of the Crown must, before exercising the powers conferred by this Act, make a statement to the effect that in the Minister of the Crown's view the exercise of the powers would not to any extent have the effect of reducing the level of environmental protection provided for by any existing environmental law.
- (2) The Minister of the Crown must seek the views of the Office for Environmental Protection before making a statement under this section.
- (3) Any statement under this section must be published in such manner as the Minister of the Crown considers appropriate
- (4) The Minister of the Crown must lay a copy of any statement under this section before each House of Parliament.”

Member's explanatory statement

This new clause would ensure that the powers proposed to be conferred by this Bill could be exercised only if in the relevant Minister's view this would not undermine existing levels of environmental protection.

Colum Eastwood
Claire Hanna
Stephen Farry

NC2

To move the following Clause—

“Environmental principles

No regulations may be made under this Act unless—

- (a) a policy statement on environmental principles has been laid before the Northern Ireland Assembly under paragraph 7(6) of Schedule 2 to the Environment Act 2021, and

- (b) paragraph 8 of Schedule 2 to the Environment Act 2021 is in force.”

Member’s explanatory statement

This new clause would prevent the exercise of any powers proposed to be granted by the Bill until the Department’s policy statement on environmental principles has been finalised and Departments and Ministers are under a statutory duty to have due regard to it.

Colum Eastwood
Claire Hanna
Stephen Farry

NC3

To move the following Clause—

“Meaning of “environmental protection”

In this Act “environmental protection” means any of the following—

- (a) protection of the natural environment from the effects of human activity;
- (b) protection of people from the effects of human activity on the environment;
- (c) maintenance, restoration or enhancement of the natural environment;
- (d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).”

Stephen Farry
Layla Moran
Mr Alistair Carmichael

NC7

☆ To move the following Clause—

**“Limitation of general implementation of the Northern Ireland Protocol:
approval of Northern Ireland Assembly**

Section 2 of this Act has no effect unless it has been approved by a resolution of the Northern Ireland Assembly.”

Member’s explanatory statement

This new clause would require the approval of the Northern Ireland Assembly before this Act could be used to limit the general implementation of the Northern Ireland Protocol.

Layla Moran
Mr Alistair Carmichael
Stephen Farry

NC8

☆ To move the following Clause—

“Publication of legal advice

- (1) The Prime Minister must lay before each House of Parliament a copy of the legal advice considered by the Government in respect to this Act which it received before the day of the First Reading in the House of Commons of the Bill for this Act.
- (2) The Attorney General must lay before each House of Parliament the assessment made by Her Majesty’s Government of the doctrine of necessity in relation to the operation of the Northern Ireland Protocol prior to the First Reading in the House of Commons of the Bill for this Act.
- (3) The Lord Chancellor must lay before each House of Parliament a report on to what extent the Bill for this Act was in accordance with Lord Chancellor’s constitutional role in relation to the constitutional principle of the rule of law.”

Member’s explanatory statement

This new clause requires the publication of the legal justification for the Bill for this Act.

Stella Creasy

NC9

☆ To move the following Clause—

“Excluded provision: Parliamentary approval

- (1) A Minister of the Crown may not make regulations that either bring into force any provision of this Act that makes any provision of the Protocol (or any related provision of the Withdrawal Agreement) excluded provision, or that make any such provision excluded provision, unless all three conditions in this section are met.
- (2) The first condition in this section is that a Minister of the Crown has laid a statement before both Houses of Parliament setting out reasons—
 - (a) why, if no safeguard measures under Article 16 of the Protocol have been taken by the United Kingdom, the Minister of the Crown considers it appropriate to exclude a provision or provisions at that time rather than to do so only after the United Kingdom has taken such safeguard measures; and
 - (b) why and how, in the view of the Minister of the Crown, making the regulations is consistent with the international obligations of the United Kingdom.
- (3) The second condition in this section is that the House of Commons has resolved, on a motion moved by a Minister of the Crown, to take note of the statement under subsection (2).

- (4) The third condition in this section is that a motion for the House of Lords to take note of that statement has been tabled in the House of Lords by a Minister of the Crown and—
- (a) the House of Lords has debated the motion, or
 - (b) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the House of Commons passes the resolution mentioned in paragraph (a)."

Member's explanatory statement

This new clause would, except where the government had already adopted safeguard measures under Article 16, require Ministers to make a statement to the House as to why they thought it appropriate and lawful to treat provisions of the Northern Ireland Protocol or any related provision of the EU Withdrawal Agreement as excluded provisions; and to require a House of Commons vote, and a debate in the House of Lords, before those excluded provisions could be brought into force.

Mr David Lammy
Peter Kyle
Stephen Doughty

NC10

☆ To move the following Clause—

"Condition prior to limitation of the Northern Ireland Protocol

- (1) This section sets out the condition which must be satisfied before a provision of—
 - (a) the Northern Ireland Protocol, or
 - (b) any other part of the EU withdrawal agreement,
 is excluded provision.
- (2) The condition must be either—
 - (a) the agreement condition (see subsection (3)), or
 - (b) the Article 16 condition (see subsection (4)).
- (3) The agreement condition is that the United Kingdom and the EU have agreed following negotiations that the provision is excluded provision.
- (4) The Article 16 condition is that—
 - (a) the United Kingdom is unilaterally taking appropriate safeguard measures, in accordance with Article 16 of the Northern Ireland Protocol,
 - (b) before taking those measures, the United Kingdom has followed the procedure set out in Annex 7 to the Protocol (which governs the taking of safeguard measures), and
 - (c) the safeguard measures being taken necessarily require that the provision is excluded provision.
- (5) Where the condition is no longer satisfied, then the provision ceases to be excluded provision, and as a consequence any regulations made dealing with excluded provision lapse to the extent that they relate to provision which is no longer excluded provision.

- (6) For the avoidance of doubt, the provisions of this Act remain subject to section 7A(2) of the European Union (Withdrawal) Act 2018, save where a provision of—
- (a) the Northern Ireland Protocol, or
 - (b) any other part of the EU withdrawal agreement,
- is excluded provision which has satisfied the requirements set out in this section.”

Member’s explanatory statement

This new clause is intended to prevent Ministers from deviating from the international agreement that is the NI Protocol unless this has either been agreed to between the UK and the EU, or the UK have followed the procedure set out in Article 16 of the Protocol for unilaterally taking safeguard measures.

CLAUSES 4 TO 6 AND 24; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Stephen Farry

Layla Moran

Mr Alistair Carmichael

Colum Eastwood

Claire Hanna

24

- ☆ Clause 4, page 3, line 3, leave out subsections (1) to (3)

Member’s explanatory statement

This amendment removes the designation of Article 5(1) to (4) and Annex 2 of the Northern Ireland Protocol relating to movement of goods and customs, as excluded provision.

Mr David Lammy

Peter Kyle

Stephen Doughty

34

- ☆ Clause 5, page 4, line 14, leave out “the Minister considers appropriate” and insert “is necessary”

Member's explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Mr David Lammy 35
Peter Kyle
Stephen Doughty

- ☆ Clause 6, page 4, line 29, leave out "they consider appropriate" and insert "is necessary"

Member's explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Richard Thomson 15

- ☆ Clause 24, page 13, line 16, leave out from "to" to the end of line 22 and insert "House of Commons draft affirmative procedure"

Member's explanatory statement

This probing amendment would apply "House of Commons draft affirmative" procedure in place of regulations on tax or customs matters being subject to annulment.

Richard Thomson 16

- ☆ Clause 24, page 13, line 27, leave out from "procedure" to the end of line 32

Member's explanatory statement

This probing amendment would prevent Henry VIII powers (amending Acts of Parliament by regulations) being made on tax or customs matters using the "made affirmative" procedure.

Richard Thomson 17

- ☆ Clause 24, page 13, line 34, leave out "draft affirmative procedure" and insert "super-affirmative procedure (see section (*Super-affirmative resolution procedure: general provisions*))"

Member's explanatory statement

This probing amendment would replace draft affirmative procedure on tax and customs matters with super-affirmative procedure (see NC5).

Richard Thomson

18

☆ Clause 24, page 13, line 36, leave out subsections (7) to (9)

Member's explanatory statement

This amendment is a probing amendment removing the "made affirmative" procedure on tax or customs matters.

Colum Eastwood
Claire Hanna
Stephen Farry

NC4

To move the following Clause—

"UK-EU Joint Committee: reduction of sanitary and phytosanitary checks

A Minister of the Crown may not exercise any powers conferred by this Act until a Minister of the Crown has sought an agreement at the UK-EU Joint Committee on reducing sanitary and phytosanitary checks and laid a report setting out the details of those discussions before each House of Parliament and provided a copy of that report to the Speaker of the Northern Ireland Assembly."

Richard Thomson

NC5

☆ To move the following Clause—

"Super-affirmative resolution procedure: tax or customs matters

- (1) For the purposes of this Act the "super-affirmative resolution procedure" in relation to the making of regulations subject to the super-affirmative resolution procedure is as follows.
- (2) The Treasury or HMRC must have regard to—
 - (a) any representations,
 - (b) any resolution of the House of Commons, and
 - (c) any recommendations of a committee of the House of Commons charged with reporting on the draft regulations, made during the 60-day period with regard to the draft regulations.
- (3) If, after the expiry of the 60-day period, the Treasury or HMRC wish to make regulations in the terms of the draft, the Treasury or HMRC must lay before the House of Commons a statement—
 - (a) stating whether any representations were made under subsection (2)(a); and
 - (b) if any representations were so made, giving details of them.

- (4) The Treasury or HMRC may after the laying of such a statement make regulations in the terms of the draft if the regulations are approved by a resolution of the House of Commons.
- (5) However, a committee of the House of Commons charged with reporting on the draft regulations may, at any time after the laying of a statement under subsection (3) and before the draft regulations are approved by that House under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft regulations.
- (6) Where a recommendation is made by a committee of the House of Commons under subsection (5) in relation to draft regulations, no proceedings may be taken in relation to the draft regulations in that House under subsection (4) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (7) If, after the expiry of the 60-day period, the Treasury or HMRC wish to make regulations order consisting of a version of the draft regulations with material changes, the Treasury or HMRC must lay before the House of Commons—
 - (a) revised draft regulations; and
 - (b) a statement giving details of—
 - (i) any representations made under subsection (2)(a); and
 - (ii) the revisions proposed.
- (8) The Treasury or HMRC may after laying revised draft regulations and a statement under subsection (7) make regulations in the terms of the revised draft regulations if the revised draft regulations are approved by a resolution of the House of Commons.
- (9) However, a committee of the House charged with reporting on the revised draft regulations may, at any time after the revised draft regulations are laid under subsection (7) and before the revised draft regulations are approved by that House under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft regulations.
- (10) Where a recommendation is made by a committee of the House of Commons under subsection (9) in relation to revised draft regulations, no proceedings may be taken in relation to the revised draft regulations in that House under subsection (8) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (11) For the purposes of subsections (4) and (8) regulations are made in the terms of draft regulations if the regulations contain no material changes to the provisions of the draft regulations.
- (12) In this section the “60-day period” means the period of 60 days beginning with the day on which the draft regulations were laid before the House of Commons under section 24 of this Act.”

Member’s explanatory statement

This new clause sets out the House of Commons super-affirmative procedure for tax and customs matters.

CLAUSES 7 TO 11; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Stephen Farry

44

★ Clause 7, page 5, line 5, at end insert—

“(1A) This section applies only if the following conditions have been met.

(1B) The first condition is that a Minister of the Crown has consulted appropriately with representatives of Northern Ireland business organisations on the option to choose between dual routes.

(1C) The second condition is that a Minister of the Crown has reached an agreement with the European Union on the option to choose between dual routes.

(1D) The third condition is that the Northern Ireland Assembly has approved by resolution the option to choose between dual routes.”

Member’s explanatory statement

This amendment would impose conditions before the option to choose between dual routes could be implemented.

Stephen Farry

45

★ Clause 8, page 5, line 24, at end insert “only if the conditions in subsection 7(1A) to (1D) have been met.”

Member’s explanatory statement

This amendment is linked to Amendment 44.

Mr David Lammy
Peter Kyle
Stephen Doughty

36

☆ Clause 9, page 5, line 27, leave out “the Minister considers appropriate” and insert “is necessary”

Member’s explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Mr David Lammy
Peter Kyle
Stephen Doughty

28

☆ Clause 9, page 5, line 34, at end insert—

- “(3) Before making regulations under this section, a Minister of the Crown must carry out an economic impact assessment of the proposed regulations, and conduct a consultation on the proposed regulations with any stakeholders whom the Minister of the Crown considers appropriate.
- (4) The Minister of the Crown making regulations under this section must lay before each House of Parliament with a copy or draft of the regulations a copy of the relevant economic impact assessment and a report of the relevant consultation.”

Member’s explanatory statement

This amendment would require an economic impact assessment to be carried out before a Minister could make any provisions for the dual regulatory regime.

CLAUSES 12 AND 17; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Mr David Lammy
Peter Kyle
Stephen Doughty

37

☆ Clause 12, page 7, line 10, leave out “the Minister considers appropriate” and insert “is necessary”

Member’s explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Mr David Lammy 41
Peter Kyle
Stephen Doughty

- ☆ Clause 17, page 9, line 40, leave out “they consider appropriate” and insert “is necessary”

Member’s explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

CLAUSES 13, 14, 18 AND 20; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES

Mr David Lammy 38
Peter Kyle
Stephen Doughty

- ☆ Clause 13, page 7, line 27, leave out “the Minister considers appropriate” and insert “is necessary”

Member’s explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Mr David Lammy 39
Peter Kyle
Stephen Doughty

- ☆ Clause 14, page 8, line 22, leave out “the Minister considers appropriate” and insert “is necessary”

Member’s explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Hilary Benn

12

- ☆ Clause 18, page 10, line 9, leave out subsection (1)

Member's explanatory statement

This amendment would remove the Minister's power to engage in any conduct in relation to any matter dealt with in the Northern Ireland Protocol, not otherwise authorised by this Act, if the Minister considers it appropriate to do so.

Mr David Lammy
Peter Kyle
Stephen Doughty

42

- ☆ Clause 18, page 10, line 11, leave out "the Minister of the Crown considers it appropriate" and insert "it is necessary"

Member's explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

Hilary Benn

13

- ☆ Clause 20, page 10, line 37, leave out subsection 2(b)

Member's explanatory statement

This amendment would remove the prohibition on a court or tribunal referring any matter to the European Court, where the matter relates to the Northern Ireland Protocol or any related provision of the EU Withdrawal Agreement, or domestic law relating to the Northern Ireland Protocol or any related provision of the EU Withdrawal Agreement, given that subsection (4) would give ministers the power to make regulations regarding references on a question of interpretation of EU law to be made by Courts and Tribunals.

Mr David Lammy
Peter Kyle
Stephen Doughty

43

- ☆ Clause 20, page 10, line 38, leave out "the Minister considers appropriate" and insert "is necessary"

Member's explanatory statement

This amendment changes the threshold for giving a Minister power to make regulations under this Clause. The threshold is amended to make it objective rather than subjective.

CLAUSES 19, 21 TO 23, 25 AND 26; NEW CLAUSES AND NEW SCHEDULES RELATING TO THE SUBJECT MATTER OF THOSE CLAUSES; REMAINING PROCEEDINGS ON THE BILL

Richard Thomson

19

- ☆ Clause 23, page 12, line 25, leave out from “to” to the end of line 29 and insert “draft affirmative procedure”

Member’s explanatory statement

This probing amendment would apply “draft affirmative” procedure in place of regulations being subject to annulment.

Richard Thomson

20

- ☆ Clause 23, page 12, line 32, leave out “draft affirmative procedure” and insert “super-affirmative procedure (see section (*Super-affirmative resolution procedure: general provisions*))”

Member’s explanatory statement

This probing amendment would replace draft affirmative procedure with super-affirmative procedure (see NC6).

Richard Thomson

21

- ☆ Clause 23, page 12, line 33, leave out from “procedure” to the end of line 37

Member’s explanatory statement

This probing amendment would prevent Henry VIII powers (amending Acts of Parliament by regulations) being made using the “made affirmative” procedure.

Richard Thomson

22

- ☆ Clause 23, page 12, line 38, leave out subsections (7) to (9)

Member’s explanatory statement

This probing amendment would remove the “made affirmative” procedure.

Sir Robert Neill

2

Clause 26, page 15, line 41, leave out subsections (2) to (5) and insert—
“(2A) This section comes into force on the day on which this Act is passed.

- (2B) The other provisions of this Act come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (2C) A statutory instrument containing regulations under subsection (2B) may not appoint a day for the commencement of any section unless—
- (a) a Minister of the Crown has moved a motion in the House of Commons to the effect that a section or sections be commenced on or after a day specified in the motion (“the specified day”),
 - (b) the motion has been approved by a resolution of that House,
 - (c) a motion to the effect that the House of Lords takes note of the specified day (or the day which is proposed to be the specified day) has been tabled in the House of Lords by a Minister of the Crown, and
 - (d) the day appointed by the regulations is the same as or is after the specified day.
- (2D) Regulations under subsection (2B) may—
- (a) appoint different days for different purposes;
 - (b) make transitional or saving provision in connection with the coming into force of any provision of this Act.”

Member’s explanatory statement

The intention of this amendment, linked to Amendment 1 to clause 1, is to require parliamentary approval for bringing into force any provisions of this Act.

Mr David Lammy 33
 Peter Kyle
 Stephen Doughty

☆ Clause 26, page 15, line 42, after “section” insert “, section [*consistency with international law*]”

Stephen Farry 3
 Claire Hanna
 Colum Eastwood
 Layla Moran
 Mr Alistair Carmichael

Clause 26, page 15, line 44, at beginning insert “Provided that the Northern Ireland Assembly has first passed a resolution indicating support for this Act,”

Member’s explanatory statement

This amendment, together with Amendment 4, will make all operational aspects of the Bill dependent upon the approval of the Northern Ireland Assembly.

Stephen Farry
 Claire Hanna
 Colum Eastwood
 Layla Moran
 Mr Alistair Carmichael

4

Clause 26, page 15, line 45, at end insert—

- “(3A) A motion for a resolution of the Northern Ireland Assembly referred to in subsection (3) must be tabled by either—
- (a) the First Minister and Deputy First Minister jointly, or
 - (b) any Member of the Northern Ireland Assembly.”

Member’s explanatory statement

This amendment, together with Amendment 3, will make all operational aspects of the Bill dependent upon the approval of the Northern Ireland Assembly.

Richard Thomson

NC6

☆ To move the following Clause—

“Super-affirmative resolution procedure: general provisions

- (1) For the purposes of this Act the “super-affirmative resolution procedure” in relation to the making of regulations subject to the super-affirmative resolution procedure is as follows.
- (2) The Minister of the Crown must have regard to—
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations, made during the 60-day period with regard to the draft regulations.
- (3) If, after the expiry of the 60-day period, the Minister of the Crown wishes to make regulations in the terms of the draft, the Minister of the Crown must lay before each House of Parliament a statement—
 - (a) stating whether any representations were made under subsection (2)(a); and
 - (b) if any representations were so made, giving details of them.
- (4) The Minister of the Crown may after the laying of such a statement make regulations in the terms of the draft if the regulations are approved by a resolution of each House of Parliament.
- (5) However, a committee of either House charged with reporting on the draft regulations may, at any time after the laying of a statement under subsection (3) and before the draft regulations are approved by that

- House under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft regulations.
- (6) Where a recommendation is made by a committee of either House under subsection (5) in relation to draft regulations, no proceedings may be taken in relation to the draft regulations in that House under subsection (4) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (7) If, after the expiry of the 60-day period, the Minister of the Crown wishes to make regulations order consisting of a version of the draft regulations with material changes, the Minister of the Crown lay before Parliament—
- (a) revised draft regulations; and
 - (b) a statement giving details of—
 - (i) any representations made under subsection (2)(a); and
 - (ii) the revisions proposed.
- (8) The Minister of the Crown may after laying revised draft regulations and a statement under subsection (7) make regulations in the terms of the revised draft regulations if the revised draft regulations are approved by a resolution of each House of Parliament.
- (9) However, a committee of either House charged with reporting on the revised draft regulations may, at any time after the revised draft regulations are laid under subsection (7) and before the revised draft regulations are approved by that House under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft regulations.
- (10) Where a recommendation is made by a committee of either House under subsection (9) in relation to revised draft regulations, no proceedings may be taken in relation to the revised draft regulations in that House under subsection (8) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (11) For the purposes of subsections (4) and (8) regulations are made in the terms of draft regulations if the regulations contain no material changes to the provisions of the draft regulations.
- (12) In this section the “60-day period” means the period of 60 days beginning with the day on which the draft regulations were laid before Parliament under section 23 of this Act.”

Member’s explanatory statement

This new clause sets out the bi-cameral super-affirmative procedure regulations under the Act, except in relation to tax and customs matters

Mr David Lammy
Peter Kyle
Stephen Doughty

NC11

☆ To move the following Clause—

“Consistency with international law

- (1) A Minister of the Crown must not make regulations under this Act unless both the conditions in subsections (2) and (5) have been satisfied.
- (2) The condition in this subsection is that a Minister of the Crown has laid before both Houses of Parliament a consistency report from a qualified person in relation to the provisions of the Northern Ireland Protocol that are, in consequence of the regulations, to become excluded provision (“the provisions at issue”).
- (3) For the purposes of subsection (2), a “consistency report” is a report as to whether, in the opinion of the qualified person, it is consistent with the international obligations of the United Kingdom for the provisions at issue to become excluded provision, and which—
 - (a) sets out the reasons for its conclusions;
 - (b) sets out the steps taken by the qualified person to obtain the views of persons appearing to the qualified person to have appropriate expertise in questions of international law; and
 - (c) attaches, or contains references to a publicly available version of, all materials considered by the qualified person in the course of preparing the report.
- (4) For the purposes of subsection (2) a “qualified person” is a judge or former judge of—
 - (a) the Supreme Court of the United Kingdom;
 - (b) the Court of Appeal of England and Wales;
 - (c) the Inner House of the Court of Session; or
 - (d) the Court of Appeal of Northern Ireland.
- (5) The condition in this subsection is that—
 - (a) the House of Commons has approved a resolution to take note of the consistency report on a motion moved by a Minister of the Crown; and
 - (b) a motion for the House of Lords to take note of the consistency report has been tabled in the House of Lords by a Minister of the Crown and—
 - (i) the House of Lords has approved a resolution to take note of the report, or
 - (ii) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the House of Commons passes the resolution mentioned in paragraph (a).”

Member’s explanatory statement

This new clause would prevent any clause of the Bill (or regulations made under it) that create

‘excluded provision’ from coming into force until (a) an authoritative and independent legal expert presents a report to parliament as to whether it is consistent with the international obligations of the United Kingdom, and (b) the House of Commons has passed a motion noting that report, and the House of Lords has debated that report.

Mr David Lammy
Peter Kyle
Stephen Doughty

NC12

☆ To move the following Clause—

“Adjudications of matters pertaining to international law

No later than two weeks after any finding by any international court, tribunal or arbitration panel that any provision of this Act, or any action taken by a Minister in exercise of powers granted by this Act, is inconsistent with the international obligations of the United Kingdom, a Minister of the Crown must—

- (a) report to each House of Parliament setting out the extent to which the relevant court, tribunal or arbitration panel has found that any provision of, or any exercise of power under, this Act is inconsistent with the international legal obligations of the United Kingdom; and
- (b) set out what steps Ministers propose take in order to bring the United Kingdom into compliance with those international obligations.”

Member’s explanatory statement

This new clause would provide that, if an international court, tribunal or arbitration panel found as a matter of fact that any actions taken by the government under the Bill were inconsistent with the UK’s international legal obligations, the Minister must report this finding to the House, and set out what steps the government will take to ensure the UK is in compliance with its international obligations.

Order of the House

[27 June 2022]

That the following provisions shall apply to the Northern Ireland Protocol Bill:

Committal

1. The Bill shall be committed to a Committee of the whole House.

Proceedings in Committee

2. Proceedings in Committee of the whole House shall be completed in three days.
3. The proceedings—
 - (a) shall be taken in the order shown in the first column of the following Table, and

- (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Proceedings	Time for conclusion of proceedings
Clauses 1 to 3, 15 and 16; new Clauses and new Schedules relating to the subject matter of those clauses	Three hours after the commencement of proceedings on the Bill on the first day
Clauses 4 to 6 and 24; new Clauses and new Schedules relating to the subject matter of those clauses	Six hours after the commencement of proceedings on the Bill on the first day
Clauses 7 to 11; new Clauses and new Schedules relating to the subject matter of those clauses	Three hours after the commencement of proceedings on the Bill on the second day
Clauses 12 and 17; new Clauses and new Schedules relating to the subject matter of those clauses	Six hours after the commencement of proceedings on the Bill on the second day
Clauses 13, 14, 18 and 20; new Clauses and new Schedules relating to the subject matter of those clauses	Three hours after the commencement of proceedings on the Bill on the third day
Clauses 19, 21 to 23, 25 and 26; new Clauses and new Schedules relating to the subject matter of those clauses; remaining proceedings on the Bill	Six hours after the commencement of proceedings on the Bill on the third day

Proceedings on Consideration and on Third Reading

4. Any proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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