

European Union (Withdrawal Agreement) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Before Clause 7

LORD GREAVES
BARONESS BENNETT OF MANOR CASTLE

1 Insert the following new Clause—

“Rights of European citizens resident in the United Kingdom

- (1) This section applies to citizens of the EU, EEA and EFTA nationals and Swiss citizens who are ordinarily resident in the United Kingdom on exit day.
- (2) Except as provided for in this Act, following exit day all persons mentioned in subsection (1) have the rights, status and obligations which applied to them before that day.
- (3) The provisions in this section apply to the children and other dependent relatives of such persons whether or not they were ordinarily resident in the United Kingdom on exit day.
- (4) The rights referred to in subsection (2) may not be amended or removed except by primary legislation.”

Clause 7

LORD OATES
LORD MCNICOL OF WEST KILBRIDE
LORD KERSLAKE

2 Leave out Clause 7 and insert the following new Clause—

“Rights related to residence

- (1) This section applies to—
 - (a) persons within the personal scope of the withdrawal agreement (defined in Article 10) having the right to reside in the United Kingdom;

Clause 7 - continued

- (b) persons to whom the provisions in (a) do not apply but who are eligible for indefinite leave to enter or remain or limited leave to enter or remain by virtue of residence scheme immigration rules (see section 17).
- (2) The Secretary of State may by regulations make provision to extend the scope of persons eligible for indefinite leave to enter or remain or limited leave to enter or remain by virtue of residence scheme immigration rules (see section 17).
- (3) A person has settled status in the United Kingdom if that person meets the criteria set out in ‘Eligibility for indefinite leave to enter or remain’ in Immigration Rules Appendix EU, or any amendment of these rules according to subsection (2).
- (4) A person with settled status holds indefinite leave to enter or remain and has the rights provided by the withdrawal agreement for those holding permanent residence as defined in Article 15 of the agreement, even if that person is not in employment, has not been in employment or has no sufficient resources or comprehensive sickness insurance.
- (5) A person has pre-settled status in the United Kingdom if that person meets the eligibility requirements set out in ‘Eligibility for limited leave to enter or remain’ in residence scheme immigration rules (see section 17), or any amendment of these rules according to subsection (2).
- (6) A person who has pre-settled status has leave to enter or remain and has the rights provided by the withdrawal agreement for those holding permanent residence as defined in Article 15 of the withdrawal agreement, even if that person is not in employment, has not been in employment or has no sufficient resources or comprehensive sickness insurance, except for the right to reside indefinitely in the United Kingdom and subject to the limitations set out in Article 23(2) of the withdrawal agreement.
- (7) The Secretary of State must by regulations made by statutory instrument make provision –
- (a) implementing Article 18(4) of the withdrawal agreement (right of eligible citizens to receive a residence document), including making provision for a physical document providing proof of residence;
 - (b) implementing Article 17(4) of the EEA EFTA separation agreement (right of eligible citizens to receive a residence document) including making provision for a physical document providing proof of residence;
 - (c) implementing Article 16(4) of the Swiss citizens’ rights agreement (right of eligible citizens to receive a residence document), including making provision for a physical document providing proof of residence.
- (8) The regulations adopted under subsection (11) must apply to those defined in subsections (1)(a) and (1)(b).
- (9) A person holding pre-settled or settled status does not lose the right to reside for not having registered that settled or pre-settled status.

Clause 7 - continued

- (10) A person who has settled or pre-settled status who has not registered their settled or pre-settled status by 30 June 2021 or any later date decided by the Secretary of State may register at any time after that date under the same conditions as those registering prior to that date.
- (11) After 30 June 2021 or any later date decided by the Secretary of State, a person or their agent may require proof of registration of settled or pre-settled status under conditions prescribed by the Secretary of State in regulations made by statutory instrument, subject to subsections (12) to (14).
- (12) Any person or their agent who is allowed under subsection (11) to require proof of registration has discretion to establish by way of other means than proof of registration that the eligibility requirements for pre-settled or settled status under the provisions of this Act have been met.
- (13) When a person within the scope of this section is requested to provide proof of registration of settled or pre-settled status as a condition to retain social security benefits, housing assistance, access to public services or entitlements under a private contract, that person shall be given a reasonable period of at least three months to initiate the registration procedure set out in this section if that person has not already registered.
- (14) During the reasonable period under subsection (13), and subsequently on the provision of proof of commencement of the registration procedure and until a final decision on registration on which no further administrative or judicial recourse is possible, a person cannot be deprived of existing social security benefits, housing assistance, access to public services or private contract entitlements on the grounds of not having proof of registration.
- (15) A statutory instrument containing regulations under this section may not be made unless a draft instrument has been laid before and approved by a resolution of each House of Parliament.”

Member’s explanatory statement

This amendment creates a declaratory registration that provides incentives for registration while at the same avoiding EU citizens becoming illegally resident if not registering by the deadline. It ensures EU citizens receive physical proof of registration. It consolidates both the current eligibility criteria of the EU Settlement Scheme immigration rules, and the rights of those eligible under the Scheme, into primary legislation.

3

Leave out Clause 7 and insert the following new Clause –

“Rights related to residence

- (1) The Secretary of State must by regulations make provision –
 - (a) implementing Article 18(4) of the withdrawal agreement (right of eligible citizens to receive a residence document), including making provision for a physical document providing proof of residence;
 - (b) implementing Article 17(4) of the EEA EFTA separation agreement (right of eligible citizens to receive a residence document) including making provision for a physical document providing proof of residence;

Clause 7 - continued

- (c) implementing Article 16(4) of the Swiss citizens' rights agreement (right of eligible citizens to receive a residence document) including making provision for a physical document providing proof of residence.
- (2) Subsection (1) applies in the same way to—
 - (a) persons within the personal scope of the withdrawal agreement having the right to reside in the United Kingdom;
 - (b) persons to whom the provisions in paragraph (a) do not apply but who are eligible for indefinite leave to enter or remain or limited leave to enter or remain by virtue of residence scheme immigration rules (see section 17)."

Member's explanatory statement

This amendment removes all the bill's references to a constitutive system, and instead makes clear it will implement the Withdrawal Agreement via a declaratory registration system. It does so by replacing the references to Withdrawal Agreement 18(1-3) with 18(4).

Clause 11

LORD MCNICOL OF WEST KILBRIDE
LORD GREAVES
BARONESS JONES OF MOULSECOOMB

4 Page 14, line 2, leave out subsection (1) and insert —

“(1) A person may appeal against a citizens' rights immigration decision to the First-tier Tribunal.”

Member's explanatory statement

This amendment would give a right of appeal against a citizens' rights immigration decision.

LORD GREAVES

5 Page 14, line 2, leave out “may” and insert “must”

Member's explanatory statement

This is a probing amendment.

6 Page 14, line 3, leave out “of a kind described in the regulations”

Member's explanatory statement

This is a probing amendment.

7 Page 14, line 24, leave out subsection (3)

Clause 11 - continued

LORD MCNICOL OF WEST KILBRIDE
LORD GREAVES

- 8 Page 14, line 24, leave out subsections (3) and (4) and insert –
- “(3) Subject to subsection (4), while an appeal is pending, the person concerned has all the rights associated with indefinite leave to remain under the residence scheme immigration rules, in particular as concerns residence, employment, access to social security benefits and other services.
 - (4) Subsection (3) does not apply to an appeal against a decision falling within subsection (2)(a) or (c).
 - (4A) “Pending” has the same meaning for the purposes of subsections (3) and (4) as in section 104 of the Nationality, Immigration and Asylum Act 2002.”

Member’s explanatory statement

This amendment would protect the rights of EU citizens while their appeals are pending.

- 9 Page 14, line 24, leave out “also”

Member’s explanatory statement

This amendment is consequential to the amendment in the name of Lord McNicol of West Kilbride to Clause 11, page 14, line 2.

BARONESS HAYTER OF KENTISH TOWN
BARONESS HAMWEE
VISCOUNT HAILSHAM

- 10 Page 14, line 25, leave out “(including judicial reviews)”

Member’s explanatory statement

This amendment would remove the power for the Government to make regulations in connection with judicial review.

Clause 13

BARONESS HAYTER OF KENTISH TOWN
BARONESS HAMWEE
VISCOUNT HAILSHAM

- 11 Page 17, line 12, at end insert –
- “() No regulations may be made under this section after the end of the period of two years beginning with IP completion day.”

Member’s explanatory statement

This amendment introduces a two-year sunset on the delegated powers relating to the coordination of social security systems, ensuring any subsequent changes must be enacted through primary legislation.

Clause 15

LORD GREAVES

Lord Greaves gives notice of his intention to oppose the Question that Clause 15 stand part of the Bill.

Clause 21

BARONESS HAYTER OF KENTISH TOWN

LORD TYLER

VISCOUNT HAILSHAM

12 Page 25, line 5, leave out “(including modifying this Act)”

Member’s explanatory statement

This amendment would remove the ability to amend the European Union (Withdrawal) Act 2018 itself by statutory instrument in connection with the Ireland/Northern Ireland Protocol.

BARONESS RITCHIE OF DOWNPATRICK

LORD EAMES

LORD HAIN

LORD EMPEY

13 Page 25, line 6, leave out “may” and insert “must”

14 Page 25, line 8, at end insert –

“(3A) In this Act, “access to the market within Great Britain for qualifying Northern Ireland goods” means that businesses in Northern Ireland must continue to be able to sell their qualifying goods to Great Britain without tariffs, origin requirements, regulatory import controls, dual authorisations or discrimination in the market.

(3B) Northern Ireland businesses shall enjoy the rights under subsection (3A) regardless of whether they trade directly with Great Britain or trade via Dublin port.”

BARONESS HAYTER OF KENTISH TOWN

LORD BEITH

VISCOUNT HAILSHAM

LORD THOMAS OF CWMGIEDD

15 Page 25, line 17, at end insert –

“() But regulations under subsection (1) may not –

- (a) impose or increase taxation or fees,
- (b) make retrospective provision,
- (c) create a relevant criminal offence,
- (d) establish a public authority,
- (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
- (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998.”

Member's explanatory statement

This amendment places a series of limitations on the regulation-making powers allowed for by inserted section 8C.

BARONESS RITCHIE OF DOWNPATRICK
LORD EAMES
LORD HAIN
LORD EMPEY

16 Page 25, line 19, at end insert –

- “() Any regulations made under this Act or any other Act that would introduce new requirements on goods traded from Northern Ireland to Great Britain (including, but not limited to, import customs declarations or origin checks) may not come into force without the consent of the Northern Ireland Assembly.
- () No additional official or administrative costs consequent on any such regulations may be recouped from the private sector.”

Clause 22

BARONESS RITCHIE OF DOWNPATRICK
LORD EAMES
LORD HAIN
LORD EMPEY

17 Page 26, line 16, leave out “may” and insert “must”

LORD THOMAS OF CWMGIEDD
BARONESS FINLAY OF LLANDAFF
BARONESS HUMPHREYS

18★ Page 26, line 28, at end insert –

- “() But regulations under this Part may not amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998.”

Member's explanatory statement

This would ensure that regulations made under this Part may not make provision to amend the Scotland Act 1998, the Government of Wales Act 2006, and the Northern Ireland Act 1998 in line with restrictions under new paragraph 11G, Schedule 2 to the European Union (Withdrawal) Act 2018 (Clause 19).

After Clause 22

LORD MORROW
LORD MCCREA OF MAGHERAFELT AND COOKSTOWN
LORD BROWNE OF BELMONT
LORD HAY OF BALLYORE

19★ Insert the following new Clause –

“Creation or facilitation of border arrangements

After section 8C of the European Union (Withdrawal) Act 2018 insert –

“8D Regulations and costs for creation or facilitation of border arrangements

After Clause 22 - continued

- (1) Nothing in section 8C or Part 1C of Schedule 2 authorises regulations which create or facilitate border arrangements between Northern Ireland and Great Britain which feature physical infrastructure, including border posts, or checks and controls that did not exist before the implementation period.
- (2) In the event that a Minister of the Crown or public body creates or facilitates border arrangements between Northern Ireland and Great Britain or regulatory barriers to placing qualifying Northern Ireland goods on the market in Great Britain, the Minister or public body must ensure that the cost of implementing, enforcing or complying with these does not fall on Northern Ireland public bodies, businesses or consumers.””

After Clause 23

BARONESS RITCHIE OF DOWNPATRICK
 LORD EAMES
 LORD HAIN
 LORD EMPEY

20 Insert the following new Clause—

“Northern Ireland’s place in the UK internal market

As part of its obligation under Article 6.2 of the Protocol on Ireland/Northern Ireland to use its best endeavours to facilitate trade between Northern Ireland and other parts of the United Kingdom, the Government must develop mitigations to safeguard the place of Northern Ireland businesses and consumers in the UK internal market.”

Clause 26

LORD PANNICK
 BARONESS TAYLOR OF BOLTON
 LORD BEITH
 LORD ANDERSON OF IPSWICH

21 Page 30, line 13, leave out paragraph (b)

Member’s explanatory statement

This amendment would remove the power of Ministers by delegated legislation to decide which courts and tribunals should have power to depart from judgments of the Court of Justice of the European Union and by reference to what test.

22 Page 30, line 20, leave out paragraph (d)

Member’s explanatory statement

This amendment would remove the power of Ministers by delegated legislation to decide which courts and tribunals should have power to depart from judgments of the Court of Justice of the European Union and by reference to what test.

LORD THOMAS OF CWMGIEDD
BARONESS FINLAY OF LLANDAFF
BARONESS HUMPHREYS

- 23★ Page 31, line 17, after “Tribunals,” insert —
“() the Scottish Ministers,
() the Welsh Ministers,
() the First Minister and deputy First Minister in Northern Ireland
or the Executive Office in Northern Ireland,”

Member’s explanatory statement

This would add Ministers from each of the Devolved Administrations to the list of those who must be consulted before the Government brings forward regulations under the new subsection (5A) proposed to be inserted into section 6 of the European Union (Withdrawal) Act 2018.

Clause 27

BARONESS HAYTER OF KENTISH TOWN
BARONESS LUDFORD
VISCOUNT HAILSHAM

- 24 Page 32, line 35, leave out paragraph (c)

Member’s explanatory statement

This amendment, coupled with another, prevents a widening of the definition of “deficiency” in relation to retained EU law which would allow the Government to make additional changes by delegated legislation.

BARONESS HAYTER OF KENTISH TOWN
LORD WALLACE OF SALTAIRE

- 25 Page 32, line 41, leave out subsection (5)

Member’s explanatory statement

This amendment would maintain the current sunset clause (i.e. exit day) on the delegated powers granted by section 8 of the European Union (Withdrawal) Act 2018.

BARONESS HAYTER OF KENTISH TOWN
BARONESS LUDFORD
VISCOUNT HAILSHAM

- 26 Page 32, line 42, leave out subsection (6)

Member’s explanatory statement

This amendment, coupled with another, prevents a widening of the definition of “deficiency” in relation to retained EU law which would allow the Government to make additional changes by delegated legislation.

After Clause 30

BARONESS HAYTER OF KENTISH TOWN
 LORD WALLACE OF SALTAIRE
 LORD HANNAY OF CHISWICK
 LORD BOWNESS

27 Insert the following new Clause—

“Oversight of negotiations for future relationship

After section 13B of the European Union (Withdrawal) Act 2018 (certain dispute procedures under withdrawal agreement) (for which see section 30 above) insert—

“13C Negotiations for future relationship

- (1) A Minister of the Crown must, before the end of the period of 30 Commons sitting days beginning with the day on which exit day falls, make a statement on objectives for the future relationship with the EU.
- (2) A Minister of the Crown may, at any time after the initial statement is made, make a revised statement on objectives for the future relationship with the EU.
- (3) A statement on objectives for the future relationship with the EU must be consistent with the political declaration of 17 October 2019 referred to in Article 184 of the withdrawal agreement (negotiations on the future relationship).
- (4) A Minister of the Crown may not engage in negotiations on the future relationship with the EU unless—
 - (a) a statement on objectives for the future relationship with the EU has been approved by the House of Commons on a motion moved by a Minister of the Crown, and
 - (b) a motion for the House of Lords to take note of that statement has been moved in that House by a Minister of the Crown.
- (5) In conducting negotiations on the future relationship with the EU, a Minister of the Crown must seek to achieve the objectives set out in the most recent statement on objectives for the future relationship with the EU to have been—
 - (a) approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown, and
 - (b) the subject of a motion of the kind mentioned in subsection (4)(b).
- (6) After the end of each reporting period, a Minister of the Crown must—
 - (a) lay before each House of Parliament a report on the progress made, by the end of the period, in negotiations on the future relationship with the EU, including—
 - (i) the Minister’s assessment of the extent to which the outcome of those negotiations is likely to reflect the most recent statement on objectives for the future relationship with the EU to have been approved by the House of Commons, and the subject of a motion in the House of Lords, as mentioned in subsection (4), and

After Clause 30 - continued

- (ii) if the Minister's assessment is that the future relationship with the EU is, in any respect, not likely to reflect that statement, an explanation of why that is so, and
- (b) provide a copy of the report to the Presiding Officer of each of the devolved legislatures and to—
 - (i) the Scottish Ministers,
 - (ii) the Welsh Ministers, and
 - (iii) the First Minister and deputy First Minister in Northern Ireland or the Executive Office in Northern Ireland.
- (7) Subsections (8) and (9) apply if, in the opinion of a Minister of the Crown, an agreement in principle has been reached with the EU on a treaty the principal purpose of which is to deal with all or part of the future relationship with the EU.
- (8) A Minister of the Crown must lay before each House of Parliament—
 - (a) a statement that political agreement has been reached, and
 - (b) a copy of the negotiated future relationship treaty.
- (9) A treaty in the same form, or to substantially the same effect, as the negotiated future relationship treaty may be ratified only if the negotiated future relationship treaty has been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown and—
 - (a) the House of Lords has not resolved, within the period of 14 Lords sitting days beginning with the day on which the negotiated future relationship treaty is laid before that House, that any treaty resulting from it should not be ratified, or
 - (b) if the House of Lords has so resolved within that period, a Minister of the Crown has laid before each House of Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why.
- (10) Section 20 of the Constitutional Reform and Governance Act 2010 (treaties to be laid before Parliament before ratification) does not apply in relation to a treaty if subsection (9) applies in relation to the ratification of that treaty.
- (11) In this section—
 - “devolved legislature” means—
 - (a) the Scottish Parliament,
 - (b) the National Assembly for Wales, or
 - (c) the Northern Ireland Assembly;
 - “future relationship with the EU” means the main arrangements which are designed to govern the security and economic aspects of the long-term relationship between the United Kingdom and the EU after IP completion day and to replace or modify the arrangements which apply during the implementation period, but does not include the withdrawal agreement;
 - “negotiated future relationship treaty” means a draft of a treaty identified in a statement that political agreement has been reached;

After Clause 30 - continued

“negotiations” means negotiations the opening of which, on behalf of the EU, has been authorised under Article 218 of the Treaty on the Functioning of the European Union;

“reporting period” means—

- (a) the period of three months beginning with the first day on which a statement on objectives for the future relationship with the EU is approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown, and
- (b) each subsequent period of three months;

“statement on objectives for the future relationship with the EU” means a statement—

- (a) made in writing by a Minister of the Crown setting out proposed objectives of Her Majesty’s Government in negotiations on the future relationship with the EU, and
- (b) published in such manner as the Minister making it considers appropriate;

“statement that political agreement has been reached” means a statement made in writing by a Minister of the Crown which—

- (a) states that, in the Minister’s opinion, an agreement in principle has been reached with the EU on a treaty the principal purpose of which is to deal with all or part of the future relationship with the EU, and
- (b) identifies a draft of that treaty which, in the Minister’s opinion, reflects the agreement in principle;

“treaty” has the same meaning as in Part 2 of the Constitutional Reform and Governance Act 2010 (see section 25(1) and (2) of that Act).”

Member’s explanatory statement

This amendment reinstates the oversight Clause from the original version of the Bill, providing an ongoing role for both Houses of Parliament during the future relationship negotiations.

BARONESS HAYTER OF KENTISH TOWN
LORD WALLACE OF SALTAIRE
VISCOUNT HAILSHAM

28

Insert the following new Clause—

“Reporting of progress in negotiations on the future relationship

After section (*Negotiations for future relationship*) of the European Union (Withdrawal) Act 2018 (for which see section (*Oversight of negotiations for future relationship*)) insert—

“13D Reporting of progress in negotiations on the future relationship

- (1) A Minister of the Crown must, before 15 June 2020, make a statement setting out the status of Her Majesty Government’s negotiations with the EU on securing agreements on trade and security as envisaged by Parts II and III of the Political Declaration setting out the framework for the future relationship between the EU and the United Kingdom.
- (2) The statement under subsection (1) must include—

After Clause 30 - continued

- (a) a report of the negotiations carried out to date,
 - (b) a declaration of whether, in the Minister's opinion, agreements can be concluded and ratified before IP completion day, and
 - (c) the policy of Her Majesty's Government if agreements are not concluded and ratified before IP completion day.
- (3) A Minister of the Crown must, within three Commons sitting days, seek the approval of the House of Commons for the policy arising from the circumstance outlined in subsection (2)(c)."

Member's explanatory statement

This amendment requires a Minister to provide an interim assessment of UK-EU trade negotiations before 15 June and afford MPs the opportunity to endorse the Government's position.

Clause 33

LORD NEWBY
BARONESS HAYTER OF KENTISH TOWN
VISCOUNT HAILSHAM

The above-named Lords give notice of their intention to oppose the Question that Clause 33 stand part of the Bill.

Member's explanatory statement

Removing this Clause would prevent the prohibition on extending the implementation period.

After Clause 35

BARONESS SMITH OF BASILDON
BARONESS RITCHIE OF DOWNPATRICK
LORD BRUCE OF BENNACHIE
LORD KERR OF KINLOCHARD

29

Insert the following new Clause—

“Involvement of the devolved administrations

After section 10 of the European Union (Withdrawal) Act 2018 insert—

“10A Involvement of the devolved administrations

- (1) The Joint Ministerial Committee (EU Negotiations) is to be a forum—
 - (a) for discussing—
 - (i) the United Kingdom's future relationship with the European Union, and
 - (ii) the economic and security impacts of that envisaged future relationship on the constituent parts of the United Kingdom, with particular regard to the position of Northern Ireland and its participation in the UK Internal Market,
 - (iii) means of mitigating the impacts mentioned in subparagraph (ii); and

After Clause 35 - continued

- (b) for seeking a consensus on those matters between Her Majesty's Government and the other members of the Joint Ministerial Committee.
- (2) Her Majesty's Government must, within the period of one month beginning with the day on which this Act is passed, produce a document for consideration by the Joint Ministerial Committee setting out—
- (a) Her Majesty's Government's objectives and strategy in negotiating and concluding a future relationship with the EU by IP completion day,
 - (b) the steps Her Majesty's Government intend to take to keep the Joint Ministerial Committee informed of progress in negotiating that future relationship,
 - (c) the steps Her Majesty's Government intend to take to seek the approval of—
 - (i) the Scottish Parliament,
 - (ii) the National Assembly for Wales, and
 - (iii) the Northern Ireland Assemblybefore entering into that future relationship.
- (3) Following consideration of the document mentioned in subsection (2), Her Majesty's Government must convene at least one meeting of the Joint Ministerial Committee each calendar month.
- (4) The Secretary of State must, after each meeting of the Joint Ministerial Committee, inform the UK representatives on the Joint Committee of the outcomes.
- (5) In undertaking work in the Joint Committee, the UK representatives on that body must have due regard to the outcomes of meetings of the Joint Ministerial Committee.
- (6) UK representatives on the Joint Committee must also have due regard to the obligation on Her Majesty's Government under Article 6.2 of the Protocol on Ireland/Northern Ireland to use best endeavours to facilitate trade between Northern Ireland and other parts of the United Kingdom.””

Member's explanatory statement

This amendment would place the Joint Ministerial Committee (EU Negotiations) on a statutory footing, requiring representatives of the devolved administrations to be briefed at least once a month on the Government's approach to the future relationship negotiations. In addition, it would introduce a requirement for UK representatives on the UK-EU Joint Committee to be notified of the outcomes of JMC meetings, and to have regard to the unique circumstances for Northern Ireland.

Clause 37

LORD DUBS
BARONESS HAMWEE
LORD KERR OF KINLOCHARD
THE LORD BISHOP OF DURHAM

The above-named Lords give notice of their intention to oppose the Question that Clause 37 stand part of the Bill.

Member's explanatory statement

Omitting Clause 37 would ensure the continuation of the refugee children and family reunification provisions of the European Union (Withdrawal) Act 2018.

After Clause 37

LORD MCNICOL OF WEST KILBRIDE
BARONESS LUDFORD
VISCOUNT HAILSHAM
BARONESS JONES OF MOULSECOOMB

30 Insert the following new Clause—

“Publication of further legislation relating to EU exit

- (1) The Secretary of State must, within the period of three months beginning with the day on which this Act is passed, publish draft Bills relating to the—
 - (a) agricultural arrangements,
 - (b) employment rights,
 - (c) financial services legislation,
 - (d) fisheries arrangements,
 - (e) healthcare arrangements,
 - (f) immigration arrangements for EU nationals,
 - (g) monitoring and enforcement of environmental protections, and
 - (h) trade remedies arrangements,that will be in effect in the United Kingdom after IP completion day.
- (2) When publishing these draft Bills, the Secretary of State must make a statement outlining the steps they will take to seek the timely passage of such legislation before IP completion day.”

Member's explanatory statement

This amendment would require the Government to bring forward versions of the Brexit legislation published but not passed during the last two parliamentary sessions, as well as requiring Secretaries of State to outline how this legislation will be passed before the end of the implementation period.

BARONESS JONES OF WHITCHURCH
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 LORD RANDALL OF UXBRIDGE
 BARONESS BROWN OF CAMBRIDGE

31 Insert the following new Clause –

“Non-regression in relation to environmental and animal welfare matters

After section 16 (maintenance of environmental principles etc.) of the European Union (Withdrawal) Act 2018 insert –

“16A Non-regression in relation to protected matters

- (1) Any action taken by or on behalf of a Minister of the Crown under –
 - (a) this Act, or
 - (b) any other enactment, for the purposes of or in connection with the withdrawal of the United Kingdom from the EU,
 is unlawful if it is intended to have, or in practice is reasonably likely to have, a regressive effect in relation to the protected matters.
- (2) A public authority exercising a function in respect of a protected matter must not exercise that function in a way that is intended to have, or is reasonably likely to have, a regressive effect.
- (3) Regulations may not be made under this Act if they are intended to have, or are reasonably likely to have, a regressive effect.
- (4) The protected matters are –
 - (a) the environment,
 - (b) food safety standards,
 - (c) registration, evaluation, authorisation and restriction of chemicals, and
 - (d) animal welfare.
- (5) For the purposes of this section an effect shall be considered regressive if it –
 - (a) reduces a level of protection provided for in retained EU law, or
 - (b) weakens governance processes associated with that protection.””

Member’s explanatory statement

This amendment prevents Ministers from using powers relating to EU withdrawal to diminish protections in retained EU law relating to the environment and animal welfare.

LORD STEVENSON OF BALMACARA
 BARONESS LUDFORD

32 Insert the following new Clause –

“Reporting of progress on achieving a data adequacy ruling

After section 15 of the European Union (Withdrawal) Act 2018 (publication and rules of evidence) insert –

“15A Reporting of progress on achieving a data adequacy ruling

- (1) A Minister of the Crown must, before 31 June 2020 and every two months thereafter until IP completion day, make a statement setting out the status of Her Majesty’s Government’s discussions with the EU on a future data adequacy ruling.
- (2) The statement under subsection (1) must include –

After Clause 37 - continued

- (a) a report of the discussions carried out to date or since the last report,
- (b) a declaration of whether, in the Minister's opinion, a data adequacy agreement can be secured from the European Commission in order to take effect immediately after IP completion day, and
- (c) the policy of Her Majesty's Government in the event of a data adequacy agreement not being secured to take effect immediately after IP completion day.”

Member's explanatory statement

This amendment requires a Minister to provide updates on the UK's discussions with the EU regarding the granting of a data adequacy decision.

LORD PADDICK
BARONESS LUDFORD

33 Insert the following new Clause—

“Implementation period negotiating objectives: security partnership

- (1) It is an objective of Her Majesty's Government within the framework of the future relationship of the United Kingdom and the EU to secure agreements that achieve equivalent outcomes to—
 - (a) continued UK participation in the European Arrest Warrant;
 - (b) continued UK membership of Europol and Eurojust; and
 - (c) continued direct access for UK agencies to the following EU data-sharing mechanisms—
 - (i) the Second Generation Schengen Information System (SIS II);
 - (ii) the European Criminal Records Information System (ECRIS);
 - (iii) the Prüm Decisions;
 - (iv) Passenger Name Record (PNR); and
 - (v) the Europol Information System (EIS).
- (2) A Minister of the Crown must lay before each House of Parliament a progress report on each of the outcomes listed in subsection (1)(a) to (c) within 4 months of this Act being passed, and subsequently at intervals of no more than 2 months.”

Member's explanatory statement

This new Clause would require the Government to seek a comprehensive security partnership as part of its negotiations for the future relationship with the EU.

LORD FOX
BARONESS LUDFORD
THE EARL OF CLANCARTY

34 Insert the following new Clause—

“Mobility framework

It is an objective of Her Majesty’s Government to take all necessary steps to secure an agreement within the framework of the future relationship of the United Kingdom and the EU which includes a mobility framework that enables all UK and EU citizens to exercise the same reciprocal rights to work, live and study, including the ability while resident in one state to work with ease across borders.”

Member’s explanatory statement

This new Clause would require the Government to seek reciprocal rights for UK and EU citizens to work, live and study.

LORD FOX

35 Insert the following new Clause—

“Implementation period negotiating objectives: level playing-field

- (1) It is an objective of Her Majesty’s Government within the framework of the future relationship of the United Kingdom and the EU to secure agreements that achieve the following outcomes—
 - (a) close alignment with the EU single market, underpinned by shared institutions and obligations, with clear arrangements for dispute resolution;
 - (b) dynamic alignment on rights and protections for workers, consumers and the environment so that UK standards at least keep pace with evolving standards across the EU as a minimum; and
 - (c) participation in EU agencies and funding programmes, including for the environment, education, science and industrial regulation.
- (2) A Minister of the Crown must lay before each House of Parliament a progress report on each of the outcomes listed in subsection (1)(a) to (c) within 4 months of this Act being passed, and subsequently at intervals of no more than 2 months.”

Member’s explanatory statement

This new Clause would require the Government to seek close alignment with the EU single market on key level playing-field provisions such as workers’ rights and environmental and consumer standards and protections as part of its negotiations for the future relationship with the EU.

BARONESS JOLLY
BARONESS BRINTON

36 Insert the following new Clause –

“UK participation in the European medicines regulatory network

- (1) It is the objective of an appropriate authority to take all necessary steps to implement an international trade agreement, which enables the United Kingdom to participate fully after IP completion day in the European medicines regulatory network partnership between the EU, the EEA and the European Medicines Agency.
- (2) A Minister of the Crown must lay before each House of Parliament a progress report on the objective in subsection (1) within 4 months of this Act being passed, and subsequently at intervals of no more than 2 months.”

Member’s explanatory statement

This new Clause would require the Government to seek to maintain participation in the European medicines regulatory network as part of its negotiations for the future relationship with the EU.

BARONESS HAMWEE
BARONESS MILLER OF CHILTHORNE DOMER

37 Insert the following new Clause –

“UK citizens resident in the EU, EEA or Switzerland: protection of rights

- (1) The Secretary of State must make arrangements to preserve, as far as is possible, the United Kingdom’s obligations under EU law to British citizens who are resident in any EEA country, or in Switzerland, on the day before IP completion day.
- (2) The arrangements in subsection (1) must include –
 - (a) arrangements for people in receipt of a United Kingdom state retirement pension to continue receiving that pension under the same uprating and other arrangements as apply on the day on which this Act is passed, for the rest of their lifetimes as long as they remain resident in any EEA country, or in Switzerland,
 - (b) arrangements for British citizens to continue receiving the same level of publicly provided healthcare as they do currently as EU citizens.
- (3) The duty in subsection (1) applies whether or not the United Kingdom reaches any relevant reciprocal arrangements with other EEA member states, or with Switzerland.”

Member’s explanatory statement

This new Clause requires the Government to take steps to preserve the rights of UK citizens living in the EU, EEA or Switzerland, including continuing to uprate UK state pensions and paying for publicly provided healthcare.

LORD STOREY
 THE EARL OF CLANCARTY
 BARONESS COUSSINS
 BARONESS BENNETT OF MANOR CASTLE

38 Insert the following new Clause—

“Implementation period negotiating objectives: Erasmus+

- (1) It is an objective of Her Majesty’s Government to secure an agreement within the framework of the future relationship of the United Kingdom and the EU before the end of the implementation period that enables the United Kingdom to participate in all elements of the Erasmus+ programme on existing terms after the implementation period ends.
- (2) A Minister must lay before each House of Parliament a progress report on the objective in subsection (1) within six months of this Act being passed.”

Member’s explanatory statement

This new Clause would require the Government to seek to negotiate continuing full membership of the EU’s Erasmus+ education and youth programmes.

LORD LEA OF CRONDALL
 BARONESS QUIN

39 Insert the following new Clause—

“Future relationship: EEA alignment

It shall be an objective of the Government to secure an agreement with the EU that aligns as closely as possible with EEA member status, having regard to Article 184 of the withdrawal agreement (concerning ongoing commitment to the political declaration).”

LORD WIGLEY

40★ Insert the following new Clause—

“Objectives during negotiations

A Minister of the Crown may not engage in negotiations on the future relationship with the EU unless—

- (a) a statement on objectives for the future relationship with the EU has been approved by the House of Commons on a motion moved by a Minister of the Crown,
- (b) a motion for the House of Lords to take note of that statement has been moved in that House by a Minister of the Crown,
- (c) a motion relating to that statement has been approved by a resolution of the National Assembly for Wales,
- (d) a motion relating to that statement has been approved by a resolution of the Scottish Parliament,
- (e) a motion relating to that statement has been approved by a resolution of the Northern Ireland Assembly.”

41★ Insert the following new Clause—

“Economic impact assessment

- (1) A Minister of the Crown must—

After Clause 37 - continued

- (a) lay before each House of Parliament, and
 - (b) submit to the Presiding Officer of each devolved legislature,
- a comprehensive economic impact assessment of potential outcomes arising from the conclusion of negotiations on the future relationship with the EU.
- (2) An assessment under subsection (1) must include—
 - (a) an analysis by NUTS1 and NUTS2 regions of the United Kingdom including (but not limited to)—
 - (i) impact on employment as both an actual figure and a percentage, and
 - (ii) impact on Gross Value Added;
 - (b) a sectoral analysis including but not limited to agriculture, health and social care, manufacturing, the aerospace industry and financial services.”

Member’s explanatory statement

This new Clause would require the Government to produce an economic impact assessment on the future relationship with the European Union.

LORD WHITTY

42★

Insert the following new Clause—

“Transport between the United Kingdom and the EU

- (1) During the implementation period a Minister of the Crown must as necessary make regulations and seek agreements with the EU or with an individual member State of the EU to ensure that transport of freight and of passengers by road, rail, air and sea continues to operate smoothly between the United Kingdom and member States of the EU during the implementation period.
- (2) No later than 31 July 2020 a Minister of the Crown must set out in a report to both Houses of Parliament the basis for movement of freight and of passengers by road, rail, air and sea between the United Kingdom and member States of the EU after the implementation period.
- (3) A Minister of the Crown must, within the period of 14 sitting days beginning with the day on which the report is published, make arrangements for an amendable motion on the report to be debated and voted on in each House of Parliament.”

Member’s explanatory statement

This amendment is to alleviate concerns that permits will become less available and more complicated for lorries and drivers on cross-Channel journeys by ensuring that contingency arrangements can be made during the implementation period.

43★

Insert the following new Clause—

“Agencies of the EU and Euratom

- (1) During the implementation period, the Secretary of State must continue to cooperate with the agencies listed in Schedule (*Agencies of the EU and Euratom*) and, if the Secretary of State considers it necessary, make regulations to enable cooperation.

After Clause 37 - continued

- (2) Subsection (3) applies whether or not during the implementation period the United Kingdom is a member, associate member or observer at an agency, or has no formal association with it.
- (3) No later than a month before the end of the implementation period, the Secretary of State must lay a report before both Houses of Parliament setting out the United Kingdom's intended future relationship with each agency listed in Schedule (*Agencies of the EU and Euratom*) after the implementation period."

Member's explanatory statement

The EU executive agencies have impacts on different sectors of UK business and society. This amendment would compel the Government to set out how they intend to fulfill their obligations in respect of the agencies during the implementation period, and how they intend future relations with those agencies will be conducted afterwards.

LORD TEVERSON

44★ Insert the following new Clause—

“Continuation of EU citizenship

It is an objective of Her Majesty's Government in their negotiations on the framework for the future relationship of the United Kingdom and the EU to secure continued EU citizenship, or a form of associated EU citizenship, for those UK citizens who wish to retain their EU citizenship.”

Clause 38

LORD THOMAS OF CWMGIEDD
BARONESS FINLAY OF LLANDAFF
BARONESS HUMPHREYS

45★ Page 37, line 42, at end insert—

- “() But it is also recognised, for the purposes of ratifying and implementing a negotiated future relationship treaty, that—
- (a) in accordance with section 28(8) of the Scotland Act 1998, the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament;
 - (b) in accordance with section 107(6) of the Government of Wales Act 2006, the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the National Assembly for Wales.”

Member's explanatory statement

This amendment adds to the Clause recognising that nothing in the Bill derogates from the sovereignty of the UK Parliament, by recalling the principle that Parliament will not normally legislate with regard to devolved matters without the legislative consent of the Scottish Parliament and the National Assembly for Wales.

LORD WALLACE OF SALTAIRE
LORD TYLER

The above-named Lords give notice of their intention to oppose the Question that Clause 38 stand part of the Bill.

After Clause 40

BARONESS HAYTER OF KENTISH TOWN
LORD TYLER
LORD BLENCATHRA

46 Insert the following new Clause—

“Regulations: extension of EUWA 2018 sifting provisions

- (1) Schedule 7 to the European Union (Withdrawal) Act 2018 is amended as follows.
- (2) In paragraph 1(3), after “8(1)” insert “, 8A(1), 8B(1) or 8C(1)”.

Member’s explanatory statement

This amendment ensures the sifting provisions in the European Union (Withdrawal) Act 2018 apply to regulations made under inserted sections 8A to 8C.

Schedule 2

LORD GREAVES

47★ Page 46, line 29, leave out paragraph 3

Member’s explanatory statement

This amendment is tabled to probe the timetable for setting up the IMA and the need to appoint an interim chief executive.

48★ Page 47, line 12, at end insert—

- “(d) a member who knows about conditions in England relating to the relevant matters.”

Member’s explanatory statement

This amendment adds England alongside the other constituent parts of the United Kingdom.

49★ Page 47, line 39, leave out from “(3)” to end of line 42 and insert—

- (a) the Secretary of State must propose to appoint a different person, and
- (b) sub-paragraphs (2) and (3) apply again.”

Member’s explanatory statement

This amendment means that the Secretary of State cannot appoint a member against the wishes of the relevant authority.

50★ Page 48, line 1, leave out sub-paragraph (7)

Member’s explanatory statement

This amendment is consequential on another amendment to Schedule 2 on page 47, line 39.

- 51★ Page 48, line 11, leave out “and” and insert –
 “() in relation to an appointment for the purposes of paragraph 4(2)(d), an organisation that the Secretary of State considers to represent local government in England, and”

Member’s explanatory statement

This amendment follows from an amendment to Schedule 2, page 47, line 12 and effectively requires the Secretary of State to consult the Local Government Association.

- 52★ Page 49, line 3, leave out “and gratuities”

- 53★ Page 49, line 31, leave out “allowances and gratuities” and insert “and allowances”

- 54★ Page 50, line 20, leave out from “relevant” to end of line 22

- 55★ Page 50, line 24, at end insert –

“() The minutes of meetings of the IMA, and of its committees and sub-committees, must be published and placed on the IMA’s website.”

Member’s explanatory statement

This amendment will ensure that the proceedings and decisions of the IMA are transparent.

- 56★ Page 52, line 15, at end insert –

“() The IMA must publish its annual plan at the same time that it sends it to the Secretary of State.”

Member’s explanatory statement

This amendment is in the interests of transparency.

- 57★ Page 53, line 22, at end insert –

“() The IMA may also keep under review and undertake enquiries into any other matters which affect the life and welfare of citizens of EU countries who are settled in the United Kingdom.”

Member’s explanatory statement

The IMA will be able to review matters which are outside the specific terms of Part 2 of the withdrawal agreement and the EEA EFTA separation agreement.

LORD MCNICOL OF WEST KILBRIDE
LORD OATES

- 58 Page 59, line 15, leave out paragraphs 39 and 40

Member’s explanatory statement

This amendment would require any transfer or abolition of the functions of the Independent Monitoring Authority to be provided for by primary legislation.

LORD THOMAS OF CWMGIEDD
 BARONESS FINLAY OF LLANDAFF
 BARONESS HUMPHREYS

59★ Page 59, line 31, at end insert –

“(3A) Sub-paragraph (3B) applies for the purpose of ensuring that the transferee has knowledge of conditions relating to the relevant matters in –

- (a) Scotland,
- (b) Wales, and
- (c) Northern Ireland.

(3B) Regulations under sub-paragraph (1) must, so far as possible, make provision equivalent to paragraphs 4 and 5 in respect of the transferee.”

Member’s explanatory statement

Schedule 2 provides a role for each devolved administration in appointing the non-executive member of the IMA with knowledge about the conditions in their territory. This amendment ensures that similar provisions would apply as far as possible if the Secretary of State transfers the IMA’s responsibilities to another body

LORD MCNICOL OF WEST KILBRIDE
 LORD OATES

60 Page 59, line 41, at end insert –

“() Regulations under sub-paragraph (1) may not abolish the IMA unless –

- (a) all of its functions have been transferred to another body, and
- (b) the Joint Committee has been notified of the laying of such regulations.”

Member’s explanatory statement

This amendment would clarify that whilst the IMA can be wound up by statutory instrument, this may only happen once all its functions have been relocated and the Joint Committee has been notified.

LORD GREAVES

61★ Page 60, line 25, at end insert –

“Charging for services

40A(1) The IMA may not make a charge for the exercise of its functions.

(2) Sub-paragraph (1) applies to any body to which the IMA’s functions are transferred under paragraph 39.”

After Schedule 3

LORD WHITTY

62★ Insert the following new Schedule –

“AGENCIES OF THE EU AND EURATOM

1 For the purposes of section (*Agencies of the EU and Euratom*), the following agencies of the European Union are listed –

- (a) European Agency for Safety and Health at Work;
- (b) European Centre for the Development of Vocational Training;

After Schedule 3 - continued

- (c) European Foundation for the Improvement of Living and Working Conditions;
 - (d) European Environment Agency;
 - (e) European Institute of Innovation and Technology;
 - (f) European Training Foundation;
 - (g) European Monitoring Centre for Drugs and Drug Addiction;
 - (h) European Medicines Agency;
 - (i) European Union Intellectual Property Office;
 - (j) Community Plant Variety Office;
 - (k) Translation Centre for the Bodies of the European Union;
 - (l) European Food Safety Authority;
 - (m) European Maritime Safety Agency;
 - (n) European Aviation Safety Agency;
 - (o) European Network and Information Security Agency;
 - (p) European Centre for Disease Prevention and Control;
 - (q) European Global Navigation Satellite Systems Agency;
 - (r) European Railway Agency;
 - (s) European Border and Coast Guard Agency;
 - (t) European Fisheries Control Agency;
 - (u) European Chemicals Agency;
 - (v) European Institute for Gender Equality;
 - (w) European Defence Agency;
 - (x) European Institute for Security Studies;
 - (y) European Union Satellite Centre;
 - (z) European Union Agency for Law Enforcement Training;
 - (za) European Union Agency for Law Enforcement Cooperation;
 - (zb) European Body for the Enhancement of Judicial Co-operation;
 - (zc) Fundamental Rights Agency;
 - (zd) Body of European Regulators of Electronic Communications;
 - (ze) European Systemic Risk Board;
 - (zf) Agency for the Cooperation of Energy Regulators;
 - (zg) European Banking Authority;
 - (zh) European Securities and Markets Authority;
 - (zi) European Insurance and Occupational Pensions Authority;
 - (zj) European Asylum Support Office;
 - (zk) European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice;
 - (zl) Executive Agency for Small and Medium-sized Enterprises;
 - (zm) Education, Audiovisual and Culture Executive Agency;
 - (zn) Consumers, Health, Agriculture and Food Executive Agency;
 - (zo) Innovation and Networks Executive Agency;
 - (zp) Research Executive Agency; and
 - (zq) European Research Council Executive Agency.
- 2 For the purposes of section (*Agencies of the EU and Euratom*), the following agencies of Euratom are listed—
- (a) Euratom Supply Agency; and
 - (b) European Joint Undertaking for ITER and the Development of Fusion Energy.”

Schedule 4

BARONESS HAYTER OF KENTISH TOWN

LORD TYLER

LORD BLENCATHRA

- 63 Page 64, line 40, leave out from “to” to end of line 41 and insert “the procedure laid out in paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement

This amendment, coupled with others to Schedule 4, ensures that SIs arising from delegated powers in this Bill will be subject to the sifting mechanisms provided for by the 2018 Act.

- 64 Page 65, line 15, leave out from “to” to end and insert “the procedure laid out in paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement

This amendment, coupled with others to Schedule 4, ensures that SIs arising from delegated powers in this Bill will be subject to the sifting mechanisms provided for by the 2018 Act.

- 65 Page 65, line 32, leave out from “to” to end of line 33 and insert “the procedure laid out in paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement

This amendment, coupled with others to Schedule 4, ensures that SIs arising from delegated powers in this Bill will be subject to the sifting mechanisms provided for by the 2018 Act.

- 66 Page 66, line 31, leave out from “to” to end of line 32 and insert “the procedure laid out in paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement

This amendment, coupled with others to Schedule 4, ensures that SIs arising from delegated powers in this Bill will be subject to the sifting mechanisms provided for by the 2018 Act.

- 67 Page 68, line 10, leave out from “to” to end and insert “the procedure laid out in paragraph 17 of Schedule 7 to the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement

This amendment, coupled with others to Schedule 4, ensures that SIs arising from delegated powers in this Bill will be subject to the sifting mechanisms provided for by the 2018 Act.

LORD GREAVES

- 68★ Page 68, line 13, leave out from “2” to end of line 14 and insert “shall be dealt with under the provisions of section 11 of the Public Bodies Act 2011.”

Member’s explanatory statement

This amendment would introduce an established procedure to provide greater safeguards in the event of a proposal to abolish, change or transfer the functions or procedures of the IMA.

European Union (Withdrawal Agreement) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

13 January 2020
