

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

Supplementary Delegated Powers Memorandum

Introduction

The government has tabled amendments to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill for Report Stage in the House of Commons. These amendments are being made as a consequence of the Scottish Government confirming that it will not support a Legislative Consent Motion for this Bill. The amendments remove delegated powers relating to social security co-ordination for Scottish Ministers in areas of devolved competence and also limit the power of a Minister of the Crown so that they cannot make provision that falls within Scottish legislative competence.

Consequently, these amendments have been tabled in line with the Sewel Convention that the Government will not normally legislate with regard to devolved matters without the consent of the devolved legislature.

Substantive Amendments

The following amendments remove the power for Scottish Ministers acting alone, or acting jointly with a Minister of the Crown to modify primary legislation, or to make regulations to modify retained EU law, as provided for under clause 5(4) of the Bill. The amendments also prevent the Secretary of State or the Treasury and a Minister of the Crown acting jointly with a Northern Ireland department to make such modifications that fall within Scottish legislative competence.

Amendment 1, amending the definition of “appropriate authority” in clause 5(7)(b)

Amendment 2, amending the definition of “appropriate authority” in clause 5(7)(c)

These amendments remove the wording “devolved authority” and instead specify a Northern Ireland department. The power in clause 5 can now only be exercised by the Secretary of State or the Treasury, a Northern Ireland department or a Minister of the Crown acting jointly with a Northern Ireland department.

Amendment 5, limiting the scope of the power in Schedule 2

Amendment 5 limits the power conferred on the Secretary of State or the Treasury, and on a Minister of the Crown acting jointly with a Northern Ireland department to modify direct retained EU law using powers under clause 5.

This amendment makes it clear that no provision that is within the legislative competence of the Scottish Parliament may be made using the power under clause 5, unless that provision is merely incidental to, or consequential on, provision that would be outside that legislative competence (and so would come within the [Devolution Guidance Note 10.2](#) category that does not engage the legislative consent process).

Consequential amendments

Amendments 3, 4 and 6 to 32 are related consequential amendments, mainly removing references to “devolved authority” and inserting a reference to a Northern Ireland department.

Department for Work and Pensions

22 June 2020