

United Kingdom Internal Market Bill

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

The amendments have been marshalled in accordance with the Instruction of 20th October 2020, as follows –

Clauses 1 to 10	Clauses 18 to 30
Schedule 1	Schedule 3
Clauses 11 to 17	Clauses 31 to 56
Schedule 2	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 38

BARONESS MCINTOSH OF PICKERING

149 Page 29, line 36, after “evidence” insert “or is subject to legal professional privilege”

Member’s explanatory statement

This amendment makes explicit reference to legal professional privilege in Clause 38(8).

BARONESS BOWLES OF BERKHAMSTED

150 Page 29, line 39, after “expenses” insert “and loss of earnings”

Member’s explanatory statement

This is a probing amendment. The powers in this section are very wide and could bear heavily on small businesses.

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 38 stand part of the Bill.

Clause 39

LORD THOMAS OF CWMGIEDD
 BARONESS RANDERSON
 BARONESS FINLAY OF LLANDAFF

151 Page 31, line 6, leave out “such” and insert “each relevant national authority and such other”

Member’s explanatory statement

This amendment requires the CMA to consult the Secretary of State and the devolved administrations when preparing or revising its statement of policy in relation to the enforcement of notices under Clause 38 requiring information or documents.

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 39 stand part of the Bill.

Clause 40

LORD THOMAS OF CWMGIEDD
 BARONESS RANDERSON
 BARONESS FINLAY OF LLANDAFF

152 Page 31, line 41, at end insert –

“and obtain the consent of each other relevant national authority.”

Member’s explanatory statement

This amendment requires the Secretary of State to obtain the consent of the devolved administrations before making regulations specifying maximum penalties that may be imposed by the CMA under Clause 39.

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 40 stand part of the Bill.

After Clause 40

BARONESS HAYTER OF KENTISH TOWN

153 Insert the following new Clause –

“Duty to consider the internal market when considering mergers

In section 58 of the Enterprise Act 2002 (specified considerations) after subsection (2E) insert –

“(2F) The need to promote the better operation and improvement of the United Kingdom internal market is specified in this section, having regard to –

- (a) the need to promote research and development and innovation in new and existing industries and enterprises, and
- (b) the need to act in the interests of United Kingdom public policy.”

After Clause 40 - continued

154 Insert the following new Clause –

“The CMA Board

- (1) Schedule 4 of the Enterprise and Regulatory Reform Act 2013 (The Competition and Markets Authority) is amended as follows.
- (2) In paragraph 1 (membership), after sub-paragraph (2) insert –
“(2A) Before appointing the chair or any members to the CMA Board, the Secretary of State must consult –
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) a Northern Ireland department.”
- (3) In paragraph 29 (delegation), after sub-paragraph (1) insert –
“(1A) Where any functions of the CMA Board have been delegated to the chief executive, the chief executive must regularly consult the following about the performance of those functions –
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) a Northern Ireland department.”

155 Insert the following new Clause –

“Consumer duty of the CMA

- (1) Section 25 of the Enterprise and Regulatory Reform Act 2013 is amended as follows.
- (2) After subparagraph (3) insert –
 - () In carrying out its functions, it is the duty of the CMA to promote and protect the interests of consumers in respect of the internal market of the United Kingdom.”

BARONESS BOWLES OF BERKHAMSTED

156 Insert the following new Clause –

“Effects of additional duties on small business

- () The CMA must take account of the effects of additional duties imposed on small business in its approach to the exercise of its functions under sections 31 to 34, and its powers under sections 38, 39 and 40.”

Clause 41

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 41 stand part of the Bill.

Before Clause 42

LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK
 BARONESS ALTMANN
 BARONESS SUTTIE

157 Insert the following new Clause—

“Good Friday Agreement

- (1) When exercising any functions under this Act, no appropriate authority may take any actions which would undermine the effective application of any international or domestic law which sets out arrangements necessary to—
- (a) address the unique political circumstances on the island of Ireland,
 - (b) maintain the necessary conditions for continued North-South cooperation,
 - (c) avoid a hard border between Northern Ireland and the Republic of Ireland, or
 - (d) support, protect or implement the 1998 Good Friday/Belfast Agreement,
- as far as relevant to the United Kingdom internal market.
- (2) In this section, “appropriate authority” has the same meaning as in section 43.”

Clause 42

LORD JUDGE
 LORD FALCONER OF THOROTON
 LORD HOWARD OF LYMPNE
 LORD CORMACK

The above-named Lords give notice of their intention to oppose the Question that Clause 42 stand part of the Bill.

Clause 43

LORD CALLANAN

158 Page 34, line 42, at end insert “, or

- (f) is necessary for the purpose of dealing with a threat to food or feed safety in Great Britain.”

Member’s explanatory statement

This amendment would create an additional exclusion from the prohibition imposed by Clause 43 on checks etc on goods moving from Northern Ireland to Great Britain. The scope of the exclusion is defined in the new subsection (6A) added by the other amendment of this Clause in my name.

159 Page 35, line 29, at end insert—

- “(6A) For the purposes of this section the exercise of a function “is necessary for the purpose of dealing with a threat to food or feed safety in Great Britain” if the exercise of the function consists of—

Clause 43 - continued

- (a) the making, or operation, of legislation which satisfies the conditions set out in paragraph 2 of Schedule 1, or
- (b) any other activity which satisfies the conditions set out in paragraph 2(2), (3), (4) and (6) of Schedule 1 (reading any reference in those conditions to “legislation” as a reference to the activity in question).”

Member’s explanatory statement

This amendment would set out the scope of the additional exclusion created by the amendment in my name adding paragraph (f) to Clause 43(2). The exclusion applies where a check etc is needed to address a threat to the health of humans or animals posed by unsafe food or feed.

LORD FOX

160 Page 36, line 1, leave out subsection (8)

Member’s explanatory statement

This amendment would remove the Secretary of State’s regulation-making power, as recommended by the Delegated Powers and Regulatory Reform Committee in its 24th Report.

LORD JUDGE

LORD FALCONER OF THOROTON

LORD HOWARD OF LYMPNE

THE LORD BISHOP OF LEEDS

The above-named Lords give notice of their intention to oppose the Question that Clause 43 stand part of the Bill.

Clause 44

LORD EAMES

THE LORD ARCHBISHOP OF CANTERBURY

BARONESS RITCHIE OF DOWNPATRICK

LORD HAIN

161 Page 36, line 43, at end insert –

“(2A) Before the power conferred by subsection (1) is exercised, the Secretary of State must publish a statement on the impact that the proposed exercise of the power is likely to have on the process of peace and reconciliation in Northern Ireland.”

LORD JUDGE

LORD FALCONER OF THOROTON

LORD HOWARD OF LYMPNE

THE LORD BISHOP OF LEEDS

The above-named Lords give notice of their intention to oppose the Question that Clause 44 stand part of the Bill.

After Clause 44

LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK
 LORD EMPEY

162 Insert the following new Clause—

“No discrimination against goods from Northern Ireland

- (1) On or after IP completion day, an appropriate authority must not exercise any function in a way that would impose any tariffs or any requirement of customs procedures for goods originating in Northern Ireland which are entering Great Britain, or discriminate, either directly or in effect, in relation to such goods entering Great Britain as compared to other goods being traded within the United Kingdom.
- (2) In this section, “appropriate authority” has the same meaning as in section 43.”

Member’s explanatory statement

Because Northern Ireland goods will be produced in accordance with EU rules under the Irish Protocol, this amendment will ensure that NI goods in particular will not be discriminated against in the operation of the UK internal market.

LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK
 BARONESS SUTTIE
 BARONESS ALTMANN

163 Insert the following new Clause—

“Trader Support Service

Persons and businesses seeking to bring trade goods either into Northern Ireland from Great Britain, or into Great Britain from Northern Ireland, may access the Trader Support Service at no cost.”

Member’s explanatory statement

The Trader Support Service set up to facilitate GB-NI trade is currently only established for a two year period. This amendment extends that support indefinitely.

Clause 45

LORD JUDGE
 LORD FALCONER OF THOROTON
 LORD HOWARD OF LYMPNE
 LORD NEWBY

The above-named Lords give notice of their intention to oppose the Question that Clause 45 stand part of the Bill.

Clause 46

LORD JUDGE
LORD FALCONER OF THOROTON
LORD HOWARD OF LYMPNE
LORD NEWBY

The above-named Lords give notice of their intention to oppose the Question that Clause 46 stand part of the Bill.

Clause 47

BARONESS MASSEY OF DARWEN
LORD DUBS
LORD SINGH OF WIMBLEDON

164 Page 39, line 3, leave out from “law” to end of line 5

Member’s explanatory statement

This amendment removes the disapplication of the obligation to comply with Convention rights in respect of Ministers making regulations under section 44(1) or 45(1).

165 Page 39, line 23, leave out subsection (3)

Member’s explanatory statement

This amendment ensures that regulations made under sections 44(1) or 45(1) would be treated like secondary legislation, not primary legislation, for the purposes of the Human Rights Act 1998.

LORD JUDGE
LORD FALCONER OF THOROTON
LORD HOWARD OF LYMPNE
LORD NEWBY

The above-named Lords give notice of their intention to oppose the Question that Clause 47 stand part of the Bill.

Clause 48

BARONESS BOYCOTT
BARONESS JONES OF MOULSECOOMB
LORD WHITTY
BARONESS HAYMAN OF ULLOCK

166 Page 40, line 41, at end insert –

“() Any financial assistance provided under this section must be consistent with the achievement of any climate and environmental goals and targets applicable in the relevant part or parts of the United Kingdom.”

Member’s explanatory statement

The intention of this amendment is to ensure that financial assistance for economic development etc under this Act is consistent with the achievement of applicable climate and environmental goals.

LORD STEVENSON OF BALMACARA

167 Leave out Clause 48 and insert the following new Clause—

“Power to provide financial assistance for economic development etc

- (1) The UK Shared Prosperity Commission must, from funding provided to the body by Her Majesty’s Government on a yearly basis, allocate financial assistance to local authorities, sectoral organisations, community groups, educational institutions and other bodies and persons following an assessment of relative need across the four nations and regions of the United Kingdom.
- (2) In this section, relative need includes but is not limited to—
 - (a) the proportion of children living below the poverty line,
 - (b) low income,
 - (c) economic weakness,
 - (d) the age structure of the population,
 - (e) the impact of a pandemic, and
 - (f) the impact of climate change, including flooding.
- (3) Schedule (*UK Shared Prosperity Commission*) contains further provision about the UK Shared Prosperity Commission.”

LORD THOMAS OF CWMGIEDD
 LORD BRUCE OF BENNACHIE
 BARONESS FINLAY OF LLANDAFF
 LORD HOPE OF CRAIGHEAD

The above-named Lords give notice of their intention to oppose the Question that Clause 48 stand part of the Bill.

Member’s explanatory statement

This notice is intended to remove the provision for a Minister of the Crown to provide financial assistance for economic development etc. anywhere in the United Kingdom.

Clause 49

LORD STEVENSON OF BALMACARA

168 Page 41, line 20, at end insert—

- “(e) may be provided through the UK Shared Prosperity Commission following a public consultation on the design and delivery of the fund.”

After Clause 49

BARONESS BENNETT OF MANOR CASTLE

169 Insert the following new Clause—

“Economic development: climate and nature emergency impact statement

- (1) Any financial assistance provided under Part 6 of this Act for the purpose of economic development must take into account the overarching need for a sustainable strategy aimed at long-term national well-being.
- (2) Every proposal for financial assistance under this Act must be accompanied by a climate and nature emergency impact statement.

After Clause 49 - continued

- (3) Responsibility for the production of the climate and nature emergency impact statement required in subsection (2) resides with the applicant for financial assistance.
- (4) Responsibility for assessment of the climate and nature emergency impact statement required in subsection (2) resides with Ministers, who are required to publish this assessment for any successful proposal.
- (5) The climate and nature emergency impact statement produced should take account of any carbon budget, climate, nature and environmental goals approved by the relevant Parliament.
- (6) In subsection (5), the “relevant Parliament” means –
 - (a) where the proposed financial assistance relates to a person in England, the House of Commons and the House of Lords;
 - (b) where the proposed financial assistance relates to a person in Scotland, the Scottish Parliament;
 - (c) where the proposed financial assistance relates to a person in Wales, Senedd Cymru;
 - (d) where the proposed financial assistance relates to a person in Northern Ireland, the Northern Ireland Assembly.”

Member’s explanatory statement

The intention of this new Clause is to ensure that those seeking financial assistance for economic development, etc under this Act are obliged to undertake a climate and nature emergency impact statement to ensure public money is only granted to development consistent with climate, nature and environmental goals and targets.

Clause 50

BARONESS RAWLINGS

169A Page 41, line 40, at end insert “, and research and development grants.”

169B Page 42, line 15, at end insert “, and research and development grants.”

169C Page 42, line 36, at end insert “, and research and development grants.”

LORD THOMAS OF CWMGIEDD
LORD STEVENSON OF BALMACARA
LORD FOX
BARONESS FINLAY OF LLANDAFF

The above-named Lords give notice of their intention to oppose the Question that Clause 50 stand part of the Bill.

Member’s explanatory statement

This notice is intended to remove provisions changing the legislative competence of the devolved legislatures to prevent devolved Acts making provision about the regulation of the provision of certain subsidies by public authorities.

Clause 51

BARONESS FINLAY OF LLANDAFF
 LORD STEVENSON OF BALMACARA
 BARONESS HUMPHREYS
 LORD HOPE OF CRAIGHEAD

The above-named Lords give notice of their intention to oppose the Question that Clause 51 stand part of the Bill.

Member's explanatory statement

This notice is intended to remove provisions changing the legislative competence of the devolved legislatures to prevent devolved Acts modifying the United Kingdom Internal Market Act 2020.

Clause 52

LORD FALCONER OF THOROTON

Lord Falconer of Thoroton gives notice of his intention to oppose the Question that Clause 52 stand part of the Bill.

After Clause 52

LORD MACKAY OF CLASHFERN

170 Insert the following new Clause—

“Common frameworks: regulations

When a decision is made between the UK Government and devolved governments on Common Frameworks covering the United Kingdom internal market, the Secretary of State must lay before Parliament regulations to bring such agreements into law.”

Member's explanatory statement

This amendment would ensure that Common Frameworks would be put on a statutory footing, with parliamentary scrutiny.

171 Insert the following new Clause—

“Joint Ministerial Committee on European Negotiations: agreement of regulations

- (1) Regulations to be made under any provision of this Act must be brought before the Joint Ministerial Committee on European Negotiations for discussion and agreement before they may be laid before Parliament.
- (2) If the Joint Ministerial Committee on European Negotiations do not agree to the regulations, the Secretary of State must lay before Parliament the reasons for the disagreement, and table a motion in both Houses of Parliament to debate the regulations and disagreement before they are approved.”

Member's explanatory statement

This amendment seeks to ensure the Joint Ministerial Committee on European Negotiations, representing all four nations, have sight of the regulations made under this Bill.

LORD FOULKES OF CUMNOCK

172 Insert the following new Clause—

“Non-regression of standards in common framework areas

- (1) It is the objective of the Secretary of State to ensure that standards are not reduced where they have been established in common framework areas until the conditions in subsection (2) are met.
- (2) The conditions in this subsection are that—
 - (a) the Secretary of State has made an agreement with the Scottish Ministers, the Welsh Ministers and a Northern Ireland department about the common framework areas, and
 - (b) the Secretary of State has laid the agreement before Parliament.
- (3) In this section, “common framework areas” means areas of law and public policy that were previously within the competence of the European Union where the Joint Ministerial Committee has considered that it might be necessary to establish a common framework in order to enable the functioning of the internal market in the United Kingdom.”

173 Insert the following new Clause—

“Internal market common framework

- (1) The Secretary of State must seek to reach agreement with the Scottish Government, the Welsh Government and the Northern Ireland Executive on a common framework on the United Kingdom internal market.
- (2) A common framework under subsection (1) may cover—
 - (a) the functioning of the United Kingdom internal market;
 - (b) the effectiveness of market access principles; and
 - (c) drawing up a shared prosperity fund to balance economic development across the whole of the United Kingdom.
- (3) The Secretary of State must take into account the common framework on the United Kingdom internal market in exercising any powers under Part 6 (financial assistance powers).”

Member’s explanatory statement

This new Clause would put the common framework process on a statutory footing.

BARONESS FINLAY OF LLANDAFF
LORD STEVENSON OF BALMACARA
BARONESS RANDERSON

174 Insert the following new Clause—

“Establishing and maintaining high levels of protection in the regulation of goods

- (1) The duty in subsection (2) applies where an appropriate authority exercises any function of making of subordinate legislation that establishes, alters or removes a relevant requirement.
- (2) The appropriate authority must have regard to the need to establish and maintain a high level of protection in respect of any regulatory aim that is relevant to the relevant requirement.

After Clause 52 - continued

- (3) A person, acting as or on behalf of an appropriate authority, in charge of a Bill in an appropriate legislature that contains provision establishing, altering or removing a relevant requirement must make a statement, on or before introduction of the Bill, that—
- (a) sets out the person’s view as to whether the provisions will provide for a level of protection in respect of any regulatory aim relevant to the relevant requirement that is equivalent to, higher than or lower than the level of protection afforded by the law before it would be changed by the Bill, and
 - (b) sets out the person’s reasons for holding that view.
- (4) The form of any statement under subsection (3), and the manner in which it is to be made, is to be determined under the standing orders of the appropriate legislature.
- (5) Before making subordinate legislation that establishes, alters or removes a relevant requirement, the appropriate authority must make a statement that—
- (a) sets out the authority’s view as to whether the legislation will provide for a level of protection in respect of any regulatory aim relevant to the relevant requirement that is equivalent to, higher than or lower than the level of protection afforded by the law before it would be changed by the legislation, and
 - (b) sets out the person’s reasons for holding that view.
- (6) A statement made under subsection (5) must be in writing and be published at such a time before the subordinate legislation is made and in such manner as the authority making it considers appropriate.
- (7) But subsection (6) is subject to any requirements imposed by the standing orders of the appropriate legislature in the case of subordinate legislation that must be laid before the legislature.
- (8) In this section—
- “appropriate authority” means—
- (a) a Minister of the Crown;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers;
 - (d) the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;
 - (e) any other person who exercises the function of making subordinate legislation;
- “appropriate legislature” means—
- (a) either House of Parliament;
 - (b) the Scottish Parliament;
 - (c) Senedd Cymru;
 - (d) the Northern Ireland Assembly;
- “regulatory aim” means—
- (a) the protection of the life or health of humans, animals or plants,
 - (b) the protection of public safety or security,
 - (c) the protection of the environment,

After Clause 52 - continued

- (d) the protection of animal welfare,
- (e) consumer protection,
- (f) the improvement of working conditions, or
- (g) a combination of any of those aims;

“relevant requirement” means –

- (a) a relevant requirement (within the meaning given by section 3) for the purposes of the mutual recognition principle for goods as it applies in relation to the sale of goods in a part of the United Kingdom, or
- (b) a relevant requirement (within the meaning given by section 6) for the purposes of the non-discrimination principle for goods.”

Member’s explanatory statement

This amendment means that Ministers and others involved in making legislation must have regard to the need to establish and maintain a high level of protection in respect of regulatory aims relevant to that legislation and to which the mutual recognition principle for goods or the non-discrimination principle apply.

Clause 53

LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK
BARONESS ALTMANN
BARONESS SUTTIE

175 Page 43, line 41, at end insert –

“() No regulations may be made under this Act which affect matters which were within the devolved competence of the Scottish Ministers, the Welsh Ministers or a Northern Ireland department prior to 31 January 2020 unless a common framework on the United Kingdom internal market, or on the relevant aspect of the internal market, has been agreed between the United Kingdom Government and the relevant devolved administration or administrations.”

Clause 54

BARONESS MCINTOSH OF PICKERING

176 Page 44, line 36, at end insert –

“() Where regulations under this Act are subject to the super-affirmative procedure, the regulations are subject to the procedure set out in Schedule (*Super-affirmative resolution procedure*).”

Clause 56

LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK
 BARONESS ALTMANN
 BARONESS SUTTIE

177 Page 45, line 17, at end insert –

- “() No provisions of this Act come into force unless the United Kingdom is, at the time that any provision of this Act would otherwise come into force, fully in compliance with the following, and, if at any time the United Kingdom fails to be fully in compliance with the following, the provisions of this Act will cease to have effect as of the first day on which the United Kingdom is non-compliant –
- (a) the terms regarding the United Kingdom internal market set out in the Northern Ireland Protocol, and
 - (b) the terms of the Good Friday Agreement which are relevant to the United Kingdom internal market.”

LORD STEVENSON OF BALMACARA

178 Page 45, line 20, at end insert –

- “() A statutory instrument containing regulations under subsection (3) may not appoint a day for the commencement of provisions in Parts 1, 2 or 3 unless, for each area, service or profession covered by a common framework under consideration of the Joint Ministerial Committee to enable the functioning of the internal market in the United Kingdom, the Minister of the Crown is satisfied that –
- (a) the relevant common framework processes have been completed to the satisfaction of all parties involved; and
 - (b) any relevant dispute resolution process that has been invoked after the relevant common framework processes has been exhausted and all concerned are satisfied with the result.”

BARONESS MCINTOSH OF PICKERING

179 Page 45, line 26, leave out “that House” and insert “both Houses of Parliament”.

Member’s explanatory statement

This amendment ensures that both Houses of Parliament would need to vote on the commencement of Clauses 44, 45 or 47.

180 Page 45, line 27, leave out paragraph (c)

Member’s explanatory statement

This is a consequential amendment.

United Kingdom Internal Market Bill

REVISED
FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
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2 November 2020
