

United Kingdom Internal Market Bill

[This Provisional Marshalled List includes all amendments tabled for Day 3 onwards.
A revised Marshalled List will be produced following the conclusion of proceedings on Day 3.
Neither amendments nor members' names may be added between the two.]

PROVISIONAL 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 25

LORD CALLANAN

- 107** Page 19, line 24, at end insert –
“(d) in relation to any part of the United Kingdom, the profession of patent attorney or trade mark attorney.”

Member’s explanatory statement

This amendment would add patent attorney and trade mark attorney to the list of legal professions the regulation of which is excluded from Clause 22.

BARONESS BOWLES OF BERKHAMSTED

- 107A** Page 19, line 24, at end insert –
“(7) Nothing in this section removes the ability of the approved regulators to authorise reserved legal activities, as in Schedule 4 to the Legal Services Act 2007 (approved regulators).”

Member’s explanatory statement

This is to probe discussion as to whether there is a change to reserved legal activities in relation to the regulators listed under the Legal Services Act 2007, in light of government Amendment 107.

Clause 27

LORD CALLANAN

108 Page 20, line 35, at end insert –

“(1A) Provision that limits the ability referred to in subsection (1)(a) to individuals with certain qualifications or experience falls within section 22(1) only if the activities affected by the provision are, in a significant number of cases, essential to the practice of the profession in question.”

Member’s explanatory statement

This amendment would provide that provision imposing qualification requirements on particular professional activities falls within Clause 22 only if the activities are, in a significant number of cases, essential to the practice of the profession in question.

After Clause 27

LORD MACKAY OF CLASHFERN

109 Insert the following new Clause –

“Purpose of this Act

The provisions of this Act are for the purpose of the maintenance of the internal market in the UK and may not be used for any other purpose.”

Member’s explanatory statement

This amendment makes clear that the powers in the Bill are not to be used to make incursions into devolved matters except for that purpose.

Clause 28BARONESS NEVILLE-ROLFE
BARONESS NOAKES

110 Leave out Clause 28 and insert –

“Office for the Internal Market

- “(1) An Office for the Internal Market (“OIM”), which will report to the Department for Business, Energy and Industrial Strategy, is established.
- (2) The functions of the OIM are as follows –
- (a) monitoring the health of the internal market, and
 - (b) advising and reporting on proposals and regulations, and their actual and potential impact on the internal market.”

Member’s explanatory statement

This amendment seeks to probe why the OIM is established within the CMA and instead attaches it to BEIS.

BARONESS BOWLES OF BERKHAMSTED
BARONESS NEVILLE-ROLFE

The above-named Lords give notice of their intention to oppose the Question that Clause 28 stand part of the Bill.

Clause 29

BARONESS BOWLES OF BERKHAMSTED
LORD PALMER OF CHILDS HILL

111 Page 22, line 40, at end insert –

“() In carrying out its functions under this Part the CMA must not engage in dispute resolution.”

BARONESS HAYTER OF KENTISH TOWN

112 Page 22, line 43, after “Kingdom” insert “to protect and promote the interest of consumers and safeguard the environment”

113 Page 23, line 6, leave out subsection (4)

BARONESS BOWLES OF BERKHAMSTED
BARONESS NEVILLE-ROLFE

The above-named Lords give notice of their intention to oppose the Question that Clause 29 stand part of the Bill.

Clause 30

LORD MACKAY OF CLASHFERN
LORD HAIN

114 Page 23, line 15, at end insert –

“(3) Before authorising a task group under subsection (1), the CMA must consult the Joint Ministerial Committee on European Negotiations.”

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 30 stand part of the Bill.

After Clause 30

LORD STEVENSON OF BALMACARA

115 Insert the following new Clause –

“Office for the Internal Market: establishment as a body corporate

- (1) Within the period of six months beginning on the day on which section 30 comes into force, the Secretary of State must by regulations establish the Office for the Internal Market (“the OIM”) as a body corporate.
- (2) Regulations under subsection (1) may amend or modify any enactment including this Act for the purposes of requiring or authorising the OIM to do anything required or authorised to be done by the CMA under this Part.
- (3) Schedule (*Office for the Internal Market*) contains further provision about the OIM once it has been established as a body corporate.
- (4) Regulations under this section are subject to the affirmative resolution procedure.”

After Clause 30 - continued

BARONESS BOWLES OF BERKHAMSTED
LORD PALMER OF CHILDS HILL

116 Insert the following new Clause –

“Office for the Internal Market

- (1) Subject to a memorandum of understanding having been agreed between the Secretary of State, the Welsh Ministers, the Scottish Ministers and the Northern Ireland department concerning the United Kingdom’s market access principles, an Office for the Internal Market (“OIM”) must be set up to assist in the oversight of the internal market in the United Kingdom.
- (2) The OIM must –
 - (a) be transparent other than when it is necessary to preserve commercially confidential information,
 - (b) include Board nominees from all devolved authorities and from regions of England.
- (3) Any task or investigatory group within the OIM must have a minimum of five persons drawn from all four nations of the United Kingdom.
- (4) If, in the ordinary course of its business, the CMA conducts an investigation which requires consideration of the operation of the UK internal market, separate from consideration by OIM, the CMA shall appoint an inquiry panel of at least five members drawn from all four nations of the United Kingdom.”

Schedule 3

LORD THOMAS OF CWMGIEDD
BARONESS RANDERSON
BARONESS FINLAY OF LLANDAFF
LORD WIGLEY

117 Page 54, line 8, at end insert –

- “(2A) After sub-paragraph (1)(b) insert –
- “(c) one person appointed to membership of the CMA Board by each of –
- (i) the Scottish Ministers,
 - (ii) the Welsh Ministers, and
 - (iii) the Department for the Economy in Northern Ireland.””

Member’s explanatory statement

This amendment provides for each of the devolved administrations to appoint a member to the CMA Board.

LORD THOMAS OF CWMGIEDD
BARONESS RANDERSON
BARONESS FINLAY OF LLANDAFF
LORD HAIN

118 Page 54, line 11, leave out “consult” and insert “obtain the consent of”

Member's explanatory statement

This amendment requires the Secretary of State to obtain the consent of the devolved administrations before appointing the chair and members of the CMA's Office of the Internal Market panel (but this is intended to be subject to the amendment in the name of Baroness Finlay to page 47, line 1).

BARONESS HAYTER OF KENTISH TOWN
BARONESS BENNETT OF MANOR CASTLE

119 Page 54, line 11, after “consult” insert “and seek the consent of”

LORD THOMAS OF CWMGIEDD
BARONESS RANDERSON
BARONESS FINLAY OF LLANDAFF

120 Page 54, line 14, at end insert –

“(2B) But the Secretary of State may make an appointment without consent required by sub-paragraph (2A) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.

(2C) If the Secretary of State makes an appointment without consent required by sub-paragraph (2A), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with the appointment.””

Member's explanatory statement

This amendment enables the Secretary of State to make an appointment to the OIM panel without the consent of the devolved administrations if one month has passed since consent was requested. Reasons must be given for proceeding without consent.

121 Page 54, line 14, at end insert –

“(4) In sub-paragraph (5), after “(1)(b)” insert “and (c)”.

2A In paragraph 2, after sub-paragraph (2) insert –

“(3) Before determining the terms and conditions of an appointment to the CMA Board under paragraph 1(1)(c), the Secretary of State must consult whichever of the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland is responsible for making the appointment.””

Member's explanatory statement

This amendment adds two new amendments to Schedule 3 related to the amendment in the name of Lord Thomas of Cwmgiedd to page 54, line 8. The first updates a cross-reference as a consequence of that amendment. The second requires the Secretary of State to consult the devolved administrations before setting terms and conditions for CMA Board members that they appoint.

122 Page 54, line 15, at end insert –

“(1A) In sub-paragraph (1), after “(1)(b)” insert “or (c)”.”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Thomas of Cwmgiedd to page 54, line 8, and applies the maximum 5-year term for CMA Board members to members appointed by the devolved administrations.

123 Page 55, line 3, at end insert –

“(2A) After sub-paragraph (2) insert –

“(2A) Sub-paragraph (2) applies to a member of the CMA Board appointed under paragraph 1(1)(c) as if the reference to the Secretary of State were a reference to whichever of the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland appointed the person.””

Member's explanatory statement

This amendment means that, if a CMA Board member appointed by one of the devolved administrations wishes to resign from membership, they must do so by giving notice to the devolved administration in question.

124 Page 55, line 15, at end insert –

“5A(1) Paragraph 7 is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) After that sub-paragraph insert –

“(2) Sub-paragraph (1) applies to a member of the CMA Board appointed under paragraph 1(1)(c) as if the reference to the Secretary of State were a reference to whichever of the Scottish Ministers, the Welsh Ministers or the Department for the Economy.””

Member's explanatory statement

This amendment means that, where a CMA Board member was appointed by one of the devolved administrations, the power to remove that member for incapacity, misbehaviour or dereliction of duty is exercisable by the devolved administration in question.

LORD THOMAS OF CWMGIEDD
BARONESS HUMPHREYS
BARONESS FINLAY OF LLANDAFF
LORD HAIN

125 Page 55, line 20, at end insert –

“7A In paragraph 12, after “Parliament” insert “, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly”.

7B In paragraph 13, after “Parliament” insert “, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly”.

7C In paragraph 14, after “Parliament” insert “, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly”.

7D In paragraph 27(b), after “(1)(b)” insert “and (c)”.”

Member's explanatory statement

This amendment requires the CMA to lay its annual plan, proposals for its plan, and its annual report before each of the devolved legislatures. It also adds an amendment to update a cross-reference as a consequence of the amendment in Lord Thomas of Cwmgiedd's name to page 54, line 8.

BARONESS HAYTER OF KENTISH TOWN
BARONESS BENNETT OF MANOR CASTLE

- 126 Page 55, line 32, at end insert “, including representatives from each of the four nations in the United Kingdom.”

BARONESS BOWLES OF BERKHAMSTED
LORD PALMER OF CHILDS HILL

- 127 Page 56, line 4, leave out “three” and insert “five”

- 128 Page 56, line 5, at end insert “drawn from all four nations of the United Kingdom.”

BARONESS HAYTER OF KENTISH TOWN

- 129 Page 56, line 7, at end insert –

“(4) The members of an OIM task group must include representatives from each of the four nations in the United Kingdom.”

BARONESS BOWLES OF BERKHAMSTED
LORD PALMER OF CHILDS HILL

- 130 Page 57, line 17, at end insert –

“(3) An OIM task group must be transparent and publish documentation except when it is necessary for commercially confidential information.”

BARONESS BOWLES OF BERKHAMSTED
BARONESS NEVILLE-ROLFE

The above-named Lords give notice of their intention to oppose the Question that Schedule 3 be the 3rd Schedule to the Bill.

After Schedule 3

LORD STEVENSON OF BALMACARA
LORD HAIN

- 131 Insert the following new Schedule –

“OFFICE FOR THE INTERNAL MARKET

Status

- 1 (1) The OIM is not to be regarded –
(a) as the servant or agent of the Crown, or
(b) as enjoying any status, immunity or privilege of the Crown.

Membership

- 2 (1) The OIM is to consist of –
(a) a Chair and five members appointed by the Secretary of State,
(b) a member appointed by the Scottish Ministers,
(c) a member appointed by the Welsh Ministers,

After Schedule 3 - continued

- (d) a member appointed by the Department for the Economy in Northern Ireland.
- (2) Before appointing a chair and member under subsection (2)(1)(a) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.

Powers

- 3 (1) The OIM may do anything required or authorised to be done by the CMA under Part 4.
- (2) The OIM may rule that any distortive or harmful subsidies are illegal and should be repaid.
- (3) The OIM may launch an investigation into distortive or harmful subsidies and subsidy races.
- (4) The OIM may recommend to the Secretary of State changes to the test for a harmful subsidy, the scope of exemptions, and time limits on approvals.
- (5) The OIM may impose a penalty.
- (6) The OIM may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its powers or functions.”

LORD STEVENSON OF BALMACARA

132

Insert the following new Schedule—

“UK SHARED PROSPERITY COMMISSION

- 1 (1) A body corporate called the UK Shared Prosperity Commission is established.
- (2) The UK Shared Prosperity Commission is not to be regarded—
- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.
- (3) The UK Shared Prosperity Commission’s property is not to be regarded—
- (a) as the property of the Crown, or
- (b) as property held on behalf of the Crown.

Membership

- 2 (1) The UK Shared Prosperity Commission is to consist of—
- (a) a Chair and five members appointed by the Secretary of State,
- (b) a member appointed by the Scottish Ministers,
- (c) a member appointed by the Welsh Ministers,
- (d) a member appointed by the Department for the Economy in Northern Ireland.
- (2) Before appointing a chair and member under sub-paragraph (2)(1)(a) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.
- (3) Before a chair can be appointed under sub-paragraph (2)(1)(a), the appointment must be confirmed by the Treasury Select Committee or a committee of either House whose remit covers the Treasury.

Funding

After Schedule 3 - continued

- 3 The Treasury must pay to the UK Shared Prosperity Commission such sums as the Her Majesty's Government considers appropriate for the purpose of enabling the UK Shared Prosperity Commission to perform its functions.

Powers

- 4 (1) The UK Shared Prosperity Commission may distribute sums from the Treasury across the four nations and regions of the United Kingdom following an assessment of relative need.
- (2) The UK Shared Prosperity Commission may conduct an assessment of relative need across the four nations and regions of the United Kingdom.
- (3) The UK Shared Prosperity Commission may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its duties in sub-paragraphs 5(1) and 5(2).

Accounts and audit

- 5 The UK Shared Prosperity Commission must—
- (a) keep proper accounts and proper records in relation to them, and
- (b) prepare a statement of accounts in respect of each financial year.

Annual report

- 6 (1) The UK Shared Prosperity Commission must prepare a report on the performance of its functions during each financial year.
- (2) The report must include the statement of accounts in respect of that year.
- (3) The report must be prepared as soon as reasonably practicable after the end of the financial year to which it relates.
- (4) The UK Shared Prosperity Commission must send the report to the Secretary of State.
- (5) The Secretary of State must lay the report before Parliament.

Public records

- 7 In subparagraph 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert—
- “UK Shared Prosperity Commission.”

Investigation by the Parliamentary Commissioner

- 8 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments subject to investigation), at the appropriate place insert—
- “UK Shared Prosperity Commission.”

House of Commons disqualification

- 9 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert “UK Shared Prosperity Commission.”

Northern Ireland Assembly disqualification

After Schedule 3 - continued

- 10 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—
“UK Shared Prosperity Commission”

Freedom of information

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—
“UK Shared Prosperity Commission.”

Public sector equality duty

- 12 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), in the group of entries under the heading “Industry, business, finance etc”, at the appropriate place insert—
“UK Shared Prosperity Commission.””

BARONESS MCINTOSH OF PICKERING

133 Insert the following new Schedule—

“SUPER-AFFIRMATIVE RESOLUTION PROCEDURE

- 1 If the Secretary of State considers it appropriate to make regulations under this Act which are subject to the super-affirmative resolution procedure, the Secretary of State may lay before Parliament—
 - (a) draft regulations, and
 - (b) an explanatory document.
- 2 The explanatory document must introduce and give reasons for draft regulations.
- 3 Subject as follows, if after the expiry of the 40-day period the draft regulations laid under paragraph 1 are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.
- 4 The procedure in paragraphs 5 to 8 apply to the draft regulations instead of the procedure in paragraph 3 if—
 - (a) either House of Parliament so resolves within the 30-day period, or
 - (b) a committee of either House charged with reporting on the draft regulations so recommends within the 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.
- 5 The Secretary of State must have regard to—
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and 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.
- 6 If, after the expiry of the 60-day period, the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.

After Schedule 3 - continued

- 7 If, after the expiry of the 60-day period, the Secretary of State wishes to proceed with the draft regulations but with material changes, the Secretary of State may lay before Parliament –
- (a) a revised draft of the regulations, and
 - (b) a statement giving a summary of the changes proposed.
- 8 If the revised draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the revised draft regulations.
- 9 For the purposes of this Schedule regulations are made in the terms of draft regulations or revised draft regulations if they contain no material changes to their provisions.
- 10 In this paragraph, references to the “30-day”, “40-day” and “60-day” periods in relation to any draft regulations are to the periods of 30, 40 and 60 days beginning with the day on which the draft regulations were laid before Parliament.”

Clause 31

BARONESS MCINTOSH OF PICKERING

134 Page 23, line 18, leave out “from time to time”

Member’s explanatory statement*This amendment deletes the phrase “from time to time” from Clause 31(1).*

135 Page 23, line 18, leave out “any matter” and insert “such matters of importance which”

Member’s explanatory statement*This amendment ensures that the CMA conducts reviews into important matters only.*

BARONESS HAYTER OF KENTISH TOWN

136 Page 23, line 19, after “operation” insert “for the benefit of consumers”

BARONESS MCINTOSH OF PICKERING

137 Page 23, line 26, at end insert –

- “() A proposal under subsection (2) may only be made by –
- (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, or
 - (d) the Department for the Economy in Northern Ireland.”

Member’s explanatory statement*This amendment ensures that only the UK Government and Devolved Administrations can make a proposal to the CMA to conduct a review.*

BARONESS BOWLES OF BERKHAMSTED

138 Page 23, line 27, after “and” insert “if so, must”

Member's explanatory statement

Transparency reports should be published on matters of significant public interest like the internal market.

BARONESS HAYTER OF KENTISH TOWN

139 Page 23, line 34, at end insert –

“(c) the impact of the operation of that market on consumers.”

140 Page 23, line 39, after “Kingdom” insert “including with reference to the impact on consumers”

LORD MACKAY OF CLASHFERN

141 Page 24, line 3, at end insert –

“(e) the Joint Ministerial Committee on European Negotiations.”

BARONESS HAYTER OF KENTISH TOWN

142 Page 24, line 12, at end insert –

“(iv) prices, the quality of goods and services, and choice for consumers, and”

BARONESS BOWLES OF BERKHAMSTED

BARONESS NEVILLE-ROLFE

The above-named Lords give notice of their intention to oppose the Question that Clause 31 stand part of the Bill.

After Clause 31

BARONESS FINLAY OF LLANDAFF

LORD FOX

143 Insert the following new Clause –

“Advice on proposal to make regulations applying Part 1, 2 or 3

- (1) Where the CMA is given notice of proposed regulations in accordance with section (*Legislation to which market access principles apply*)(5), (*Services: application of sections 18 to 20*)(9) or (*Application of Part 3*)(3), the CMA must give advice, or make a report, to the Secretary of State with respect to the proposed regulations.
- (2) The advice or report must (among other things) consider the potential effects on the matters specified in subsection (3) –
 - (a) of any regulatory provision that any relevant national authority has proposed or might reasonably be expected to propose and that would be affected by the making of the proposed regulations, and
 - (b) of the application of Part 1, 2 or 3 of this Act by virtue of the proposed regulations.
- (3) The matters mentioned in subsection (2) are –
 - (a) the effective operation of the internal market in the United Kingdom, including –
 - (i) indirect or cumulative effects,
 - (ii) distortion of competition or trade, and

After Clause 31 - continued

- (iii) impacts on prices, the quality of goods and services or choice for consumers,
- (b) the following in each part of the United Kingdom—
 - (i) the health and safety of humans, animals and plants,
 - (ii) standards of environmental protection, and
 - (iii) any other aim that any regulatory provision mentioned in subsection (2)(a) would seek to promote.
- (4) Where the CMA gives advice, or makes a report, to the Secretary of State under this section—
 - (a) it must at the same time send a copy of the advice or report to the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland;
 - (b) it must publish the advice or report in such manner as it considers appropriate.”

Member’s explanatory statement

This amendment requires the CMA to provide advice or a report to the Secretary of State when notified of proposed regulations applying Part 1, 2 or 3 of the Bill and it specifies matters that the advice or report must consider.

Clause 32

BARONESS MCINTOSH OF PICKERING

144 Page 25, line 33, after “part” insert “or the entirety”

Member’s explanatory statement

This amendment ensures that the Secretary of State can request advice of a report for the whole UK not simply a part of the UK.

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 32 stand part of the Bill.

Clause 33

BARONESS BOWLES OF BERKHAMSTED

145 Page 25, line 43, leave out subsection (2)

Member’s explanatory statement

The wording of this subsection is very wide and encourages use of less transparent methods.

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 33 stand part of the Bill.

Clause 34

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 34 stand part of the Bill.

Clause 35

BARONESS MCINTOSH OF PICKERING

146 Page 27, line 42, leave out subsection (4)

Member's explanatory statement

This amendment deletes Clause 35(4) from the bill.

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 35 stand part of the Bill.

Clause 36

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 36 stand part of the Bill.

Clause 37

BARONESS MCINTOSH OF PICKERING

147 Page 28, line 37, at end insert –

“() Before preparing advice and information under subsection (1) the CMA must consult such persons as it considers appropriate.”

Member's explanatory statement

This amendment ensures that the CMA must consult stakeholders before preparing advice and information under Clause 37.

148 Page 28, line 45, at end insert –

“() Before revising or withdrawing any advice or guidance under subsection (1) the CMA must consult such persons as it considers appropriate”.

Member's explanatory statement

This is a consequential amendment.

BARONESS BOWLES OF BERKHAMSTED

Baroness Bowles of Berkhamsted gives notice of her intention to oppose the Question that Clause 37 stand part of the Bill.

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.”

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.”

After Clause 40 - continued

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 –

- (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.
- (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.”

Clause 50 - continued

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.

After Clause 52 - continued

- (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.
- (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.

After Clause 52 - continued

(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,
- (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 –

Clause 56 - continued

- (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

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

30 October 2020
