

United Kingdom Internal Market Bill

REVISED
THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 12th November 2020, as follows –

Clauses 1 to 10	Clauses 18 to 30
Schedule 1	Schedule 3
Clauses 11 to 17	Clauses 31 to 50
Schedule 2	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 39

LORD CALLANAN

- 62** Page 31, line 30, leave out “such” and insert “–
(a) each relevant national authority, and
(b) such other”

Member’s explanatory statement

This amendment would provide that the domestic administrations must be among the bodies consulted by the CMA in relation to its policy on enforcing information-gathering notices.

Clause 40

BARONESS BOWLES OF BERKHAMSTED
BARONESS ALTMANN
LORD VAUX OF HARROWDEN

- 62A** Page 32, line 7, at end insert –
“() Penalties under section 39(1) or (2) may not be imposed on small companies, as defined in section 382 of the Companies Act 2006 (companies qualifying as small: general), or on partnerships or other businesses with similar criteria.”

Clause 40 - continued

LORD CALLANAN

- 63 Page 32, line 19, after “CMA,” insert—
 “(aa) each other relevant national authority,”

Member’s explanatory statement

This amendment would provide that the other domestic administrations must be among the bodies consulted by the Secretary of State about regulations setting the level of penalties for contraventions of information-gathering notices issued by the CMA.

BARONESS BOWLES OF BERKHAMSTED

- 63A Leave out Clause 40

After Clause 40

BARONESS BOWLES OF BERKHAMSTED

- 63B Insert the following new Clause—

“Market investigation

- (1) Sections 38 to 40 only have effect when the OIM has issued a notice indicating that it is conducting a market investigation into adverse effects in the United Kingdom internal market.
- (2) Penalties under section 40 only have effect when there is suspicion of adverse effects to the United Kingdom internal market caused by the commercial actions of the person acting individually or collectively.
- (3) Penalties under section 40 do not apply where the investigation concerns regulatory provisions.”

Member’s explanatory statement

The powers given to the OIM in this amendment correspond to those of the CMA for market studies looking into harm. This amendment provides some broadly corresponding limitation.

Clause 42LORD THOMAS OF CWMGIEDD
LORD PURVIS OF TWEED

- 64 Leave out Clause 42

Member’s explanatory statement

This amendment 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.

After Clause 42

LORD STEVENSON OF BALMACARA
BARONESS FINLAY OF LLANDAFF

65

Insert the following new Clause –

“UK Shared Prosperity Fund Commissioner

- (1) Within the period of six months beginning with the day on which this Act is passed, the Secretary of State must by regulations appoint a person as the Commissioner of the UK Shared Prosperity Fund (“the Commissioner”), whose primary task is to make recommendations to the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland respectively for the disbursement of the Shared Prosperity Fund set up as specified in subsection (5)(a).
- (2) Regulations under this section are subject to the affirmative resolution procedure.
- (3) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment.
- (4) The Secretary of State may pay in respect of the Commissioner any administrative expenses or allowances that the Secretary of State may determine.
- (5) The Secretary of State –
 - (a) must before the beginning of each financial year specify a maximum sum which is to be made available for the amelioration of relative need, through the Shared Prosperity Fund, as defined in subsection (11), and which may be spent that year by the bodies specified in subsection (9),
 - (b) may permit that to be exceeded for a specified purpose,
 - (c) must consult with and seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland on the amount to be available to the Shared Prosperity Fund, and
 - (d) subject to paragraphs (a) and (b), must defray the Commissioner’s expenditure for each financial year.
- (6) In this section, “financial year” means –
 - (a) the period beginning with the day on which the first Commissioner takes office and ending with the following 31 March, and
 - (b) each successive period of 12 months.
- (7) The Commissioner may appoint staff.
- (8) The Secretary of State must consult and seek the consent of the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland on the appointment of the Commissioner.
- (9) The bodies who are eligible to distribute financial assistance under section 42 are local authorities, sectoral organisations, community groups, educational institutions and other appropriate bodies and persons in England, Scotland, Wales and Northern Ireland.

After Clause 42 - continued

- (10) Prior to submitting recommendations for the disbursement of the Shared Prosperity Fund set up as specified in subsection (5)(a) the Commissioner must discuss these with the Secretary of State, the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.
- (11) 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.
- (12) If a Minister of the Crown does not follow the recommendations made under subsection (1), a Minister of the Crown must make a statement to Parliament explaining why the recommendations were not followed.”

Clause 43

LORD CALLANAN

66 Page 35, line 8, at end insert –

- “(3) As soon as practicable after 31 March each year, a Minister of the Crown must prepare a report summarising how the power in section 42 has been exercised during the preceding period of 12 months ending with 31 March.
- (4) Subsection (3) does not apply if the power has not been exercised during that period.
- (5) Reports under subsection (3) must be laid before Parliament.”

Member’s explanatory statement

This amendment would require Ministers to prepare annual reports summarising how the financial assistance power has been exercised and lay them before Parliament.

LORD WIGLEY

67 Page 35, line 8, at end insert –

- “(3) Financial assistance for economic development provided under section 42 for Wales, Scotland and Northern Ireland is managed and administered by the Welsh Ministers, the Scottish Ministers and a Northern Ireland Department respectively.
- (4) The amounts made available for financial assistance under section 42 to Wales, Scotland and Northern Ireland are determined on a needs-based formula related to the Gross Domestic Product per capita in each of the three devolved nations in relation to the Gross Domestic Product per capita of the United Kingdom.
- (5) Regulations containing the needs-based formula to be used for the financial determinations in subsection (4) above must be made by a Minister of the Crown and are subject to the affirmative resolution procedure.

Clause 43 - continued

- (6) Before presenting the draft order specified in subsection (5) to Parliament, the Minister must consult the relevant Welsh and Scottish Ministers and a Northern Ireland Department and secure their agreement on the content of that order.
- (7) The financial assistance provided under section 42 must be presented in the form of a multi-annual rolling fund.”

Member’s explanatory statement

The purpose of this amendment is to ensure that the devolved governments retain control over the funding allocation for economic regeneration programmes; are involved in drawing up the formula on which such funding is based; and have a multi-annual assurance of the continuity of funding to facilitate coherent financial planning.

LORD PURVIS OF TWEED

68 Leave out Clause 43

After Clause 43

BARONESS BOWLES OF BERKHAMSTED
LORD STEVENSON OF BALMACARA

68A Insert the following new Clause—

“State aid and the Office for the Internal Market

- (1) Within the period of six months beginning with the day on which section 30 comes into force, and within the existing budget, the Secretary of State must by regulations establish the Office for the Internal Market (“the OIM”) as independent of the CMA.
- (2) The Secretary of State must consult and seek the consent of Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland on appointments to the OIM.
- (3) Following public consultation about the United Kingdom’s state aid provisions and with the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland the Secretary of State may by regulations make the OIM the competent body for—
 - (a) investigating harmful and distortive subsidies and subsidy races made by any administration within the United Kingdom and relating to harm in the United Kingdom;
 - (b) recommending to the Secretary of State and the Devolved Administrations changes to the test for a harmful subsidy, remedies, the scope of exemptions and time limits on approvals;
 - (c) recommending changes in its powers and functions.
- (4) After two years and before three years, beginning with the day on which section 30 comes into force, there shall be a review of the competences of the OIM.
- (5) Regulations under this section are subject to the affirmative resolution procedure.”

Clause 44

LORD THOMAS OF CWMGIEDD
LORD PURVIS OF TWEED
LORD STEVENSON OF BALMACARA

69 Leave out Clause 44

Member's explanatory statement

This amendment 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 46

LORD JUDGE

70 Page 37, line 2, leave out subsection (1) and insert—

“(1) Section 11 ceases to have effect when Articles 5 to 10 of the Northern Ireland Protocol cease to apply.”

Member's explanatory statement

This amendment is consequential on the removal of Part 5 (Northern Ireland Protocol) at Committee Stage.

71 Page 37, line 7, leave out “except the amendment made by subsection (3)”

Member's explanatory statement

This amendment is consequential on the removal of Part 5 (Northern Ireland Protocol) at Committee Stage.

72 Page 37, line 13, leave out subsection (3)

Member's explanatory statement

This amendment is consequential on the removal of Part 5 (Northern Ireland Protocol) at Committee Stage.

After Clause 46

LORD MACKAY OF CLASHFERN
LORD CORMACK

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

After Clause 48

BARONESS MCINTOSH OF PICKERING
LORD FOULKES OF CUMNOCK

74 Insert the following new Clause—

“Scrutiny procedure in certain urgent cases

- (1) Subsection (2) applies to a statutory instrument containing regulations under this Act to which the super-affirmative resolution procedure applies.
- (2) The instrument may be made without scrutiny under the super-affirmative resolution procedure if it contains a declaration that the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being approved under that procedure.
- (3) After an instrument is made in accordance with subsection (2), it must be laid before each House of Parliament.
- (4) Regulations contained in an instrument made in accordance with subsection (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4), that does not—
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.”

Member's explanatory statement

This amendment provides for a procedure to approve regulations in urgent cases.

Clause 50

LORD FOX
LORD PURVIS OF TWEED
BARONESS BENNETT OF MANOR CASTLE
LORD WIGLEY

75 Page 39, line 5, at end insert “, subject to subsection (3A).

- (3A) A statutory instrument containing regulations under subsection (3) may not appoint a day for the commencement of Part 1, 2, 3 or 4 until the following requirements are met—
 - (a) the requirement in subsection (3B), and
 - (b) the requirement in subsection (3C) or the requirement in subsection (3D).

Clause 50 - continued

- (3B) The requirement in this subsection is that the Prime Minister must convene a plenary session of the Joint Ministerial Council in order to seek agreement of the market access principles set out in section 1(2).
- (3C) If an agreement on the market access principles is reached at the conclusion of the Joint Ministerial Council session, the requirement in this subsection is that the Secretary of State must lay before Parliament a memorandum of understanding which sets out—
- (a) details of the agreed principles; and
 - (b) proposals for the establishment of an agreed dispute resolution mechanism relating to the internal market in the United Kingdom for any disputes among the Secretary of State, the Welsh Ministers, the Scottish Ministers, and a Northern Ireland department.
- (3D) If unanimous agreement is not reached at the conclusion of the Joint Ministerial Council session, the requirement in this subsection is that the Secretary of State must lay before Parliament a report outlining—
- (a) why unanimous agreement could not be reached; and
 - (b) proposals for the operation of the internal market in the United Kingdom in light of the fact that an agreement under subsection (3B) was not reached unanimously.”

LORD STEVENSON OF BALMACARA

76 Page 39, line 5, 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 matter covered by the common frameworks process to enable the functioning of the internal market in the United Kingdom, the Minister of the Crown is satisfied that—
- (a) the relevant common frameworks process is no longer in progress as no agreement has been reached to the satisfaction of all parties involved; and
 - (b) any relevant dispute resolution process has been invoked after the relevant common frameworks process did not end in an agreement and all concerned are satisfied with the result.”

LORD JUDGE

77 Page 39, line 6, leave out subsection (4)

Member's explanatory statement

This amendment is consequential on the removal of Part 5 (Northern Ireland Protocol) at Committee Stage.

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23 November 2020
