

United Kingdom Internal Market Bill

COMMONS REASONS AND AMENDMENTS TO WORDS RESTORED TO THE BILL

[The page and line numbers refer to HL Bill 135, the bill as first printed for the Lords]

LORDS AMENDMENTS 1, 19 AND 34

After Clause 1

1 Insert the following new Clause –

“Common frameworks process

- (1) The United Kingdom market access principles shall not apply to any statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.
- (3) The “common frameworks process” is a means, established by the Joint Ministerial Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and devolved governments.”

After Clause 18

19 Insert the following new Clause –

“Common frameworks process

- (1) The mutual recognition of authorisation requirements shall not apply to any regulatory requirement that gives effect to a decision to diverge from harmonised requirements that has been agreed through the common frameworks process.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.”

Clause 25

34 Page 19, line 13, at end insert—

“() Section 22(2) does not apply if the provision has been agreed through the common frameworks process.”

COMMONS REASON

The Commons disagree to Lords Amendments 1, 19 and 34 for the following Reason –

1A *Because they will create legal uncertainty, which would be disruptive to business.*

LORDS AMENDMENTS 8, 9, 12, 13, 17, 30 AND 56

Clause 6

8 Page 5, line 23, leave out subsections (5) to (7)

Clause 8

9 Page 7, line 1, leave out subsections (7) and (8)

Clause 10

12 Leave out Clause 10 and insert the following new Clause—

“Exclusions from market access principles: public interest derogations

- (1) The United Kingdom market access principles do not apply to, and sections 2(3) and 5(3) do not affect the operation of, any requirements which—
 - (a) pursue a legitimate aim,
 - (b) are a proportionate means of achieving that aim, and
 - (c) are not a disguised restriction on trade.
- (2) A requirement is considered to pursue a legitimate aim if it makes a contribution to the achievement of—
 - (a) environmental standards and protection,
 - (b) animal welfare,
 - (c) consumer standards, including digital and artificial intelligence privacy rights,
 - (d) employment rights and protections,
 - (e) health and life of humans, animals or plants,
 - (f) cultural expression,
 - (g) regional socio-cultural characteristics, or
 - (h) equality entitlements, rights and protections.
- (3) A requirement is considered disproportionate if the legitimate aim being pursued in the destination part of the United Kingdom is already achieved to the same or higher extent by requirements in the originating part of the United Kingdom.”

Clause 11

13 Page 8, line 9, leave out subsections (6) and (7)

Clause 17

17 Page 12, line 35, leave out subsections (2) to (4)

Clause 20

30 Page 14, line 25, leave out subsections (7) and (8)

Schedule 1

56 Leave out Schedule 1

COMMONS REASON

The Commons disagree to Lords Amendments 8, 9, 12, 13, 17, 30 and 56 for the following Reason –

8A *Because the omission of Schedule 1 by Lords Amendment No. 56 in consequence of replacing clause 10 with the new clause proposed by Lords Amendment No. 12 and the omission of powers to amend provisions of Parts 1 and 2 (including Schedules 1 and 2) by Lords Amendments Nos. 8, 9, 12, 17 and 30, would result in the Secretary of State being unable to respond quickly to the changing needs of the UK internal market.*

LORDS AMENDMENTS 10, 11, 16, 18 AND 31 TO 33**Clause 8**

10 Page 7, line 4, at end insert –

“(8A) Before making regulations under subsection (7) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.”

11 Page 7, line 4, at end insert –

“(8A) Before making regulations under subsection (7) the Secretary of State must obtain the consent of the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.

(8B) But the Secretary of State may make regulations under subsection (7) without the consent required by subsection (8A) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.

(8C) If the Secretary of State makes regulations without the consent required by subsection (8A), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with making the regulations.”

After Clause 12

16 Insert the following new Clause –

“Duty to review the use of Part 1 amendment powers

(1) In this section “the Part 1 amendment powers” are the powers conferred by sections 6(5), 8(7) and 10(2) (powers to amend certain provisions of Part 1).

- (2) The Secretary of State must, during the permitted period –
 - (a) carry out a review of any use that has been made of the Part 1 amendment powers,
 - (b) prepare a report of the review, and
 - (c) lay a copy of the report before Parliament.
- (3) In carrying out the review the Secretary of State must –
 - (a) consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland;
 - (b) consider any relevant reports made, or advice given, by the Competition and Markets Authority under Part 4; and
 - (c) assess the impact and effectiveness of any changes made under the Part 1 amendment powers.
- (4) The permitted period is the period beginning with the third anniversary of the passing of this Act and ending with the fifth anniversary.
- (5) If any Part 1 amendment power has not been used by the time the review is carried out, this section has effect –
 - (a) as if the report required by subsection (2), so far as relating to that power, is a report containing –
 - (i) a statement to the effect that the power has not been used since it came into force, and
 - (ii) such other information relating to that statement as the Secretary of State considers it appropriate to give, and
 - (b) as if the requirements of subsection (3) did not apply in relation to that power.”

Clause 17

18 Page 12, line 45, at end insert –

“(5) Before making regulations under subsection (2) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.”

Clause 20

31 Page 14, line 28, at end insert –

“(8A) Before making regulations under subsection (7) the Secretary of State must consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.”

32 Page 14, line 28, at end insert –

“(8A) Before making regulations under subsection (7) the Secretary of State must obtain the consent of the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.

(8B) But the Secretary of State may make regulations under subsection (7) without the consent required by subsection (8A) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.

- (8C) If the Secretary of State makes regulations without the consent required by subsection (8A), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with making the regulations.”

After Clause 20

33 Insert the following new Clause –

“Duty to review the use of Part 2 amendment powers

- (1) In this section “the Part 2 amendment powers” are the powers conferred by sections 17(2) and 20(7) (powers to amend certain provisions of Part 2).
- (2) The Secretary of State must, during the permitted period –
 - (a) carry out a review of any use that has been made of the Part 2 amendment powers,
 - (b) prepare a report of the review, and
 - (c) lay a copy of the report before Parliament.
- (3) In carrying out the review the Secretary of State must –
 - (a) consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland;
 - (b) consider any relevant reports made, or advice given, by the Competition and Markets Authority under Part 4; and
 - (c) assess the impact and effectiveness of any changes made under the Part 2 amendment powers.
- (4) The permitted period is the period beginning with the third anniversary of the passing of this Act and ending with the fifth anniversary.
- (5) If either of the Part 2 amendment powers has not been used by the time the review is carried out, this section has effect –
 - (a) as if the report required by subsection (2), so far as relating to that power, is a report containing –
 - (i) a statement to the effect that the power has not been used since it came into force, and
 - (ii) such other information relating to that statement as the Secretary of State considers it appropriate to give, and
 - (b) as if the requirements of subsection (3) did not apply to that power.”

COMMONS REASON

The Commons disagree to Lords Amendments 10, 11, 16, 18 and 31 to 33 for the following Reason –

- 10A *Because a number of the Lords Amendments were inconsistent with each other or with Lords Amendments proposing the deletion of powers to amend provisions of Part 1 or 2 and it is appropriate, following the restoration of those powers, for the Lords to reconsider the Lords Amendments.*

LORDS AMENDMENTS 14 AND 52 TO 55

Clause 11

- 14 Page 8, leave out line 17 and insert “the European Union (Withdrawal) Act 2018”

Clause 52

- 52** Page 43, line 13, 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.”
- 53** Page 43, line 18, leave out “except the amendment made by subsection (3)”
- 54** Page 43, line 24, leave out subsection (3)

Clause 56

- 55** Page 45, line 21, leave out subsection (4)

COMMONS REASON

The Commons disagree to Lords Amendments 14 and 52 to 55 for the following Reason –

- 14A** *Because they were consequential upon Lords Amendments Nos. 42 to 47 and so the changes they made are no longer needed as a result of the Commons disagreement to Lords Amendments Nos. 42 to 47.*

LORDS AMENDMENT 15

Clause 12

- 15** Page 8, line 31, at end insert—
- “(4A) Before issuing, revising or withdrawing any guidance under subsection (4), the Secretary of State must obtain the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (4B) But the Secretary of State may issue, revise or withdraw any guidance without the consent required by subsection (4A) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.
- (4C) If the Secretary of State makes regulations without the consent required by subsection (4A), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with making the regulations.”

COMMONS REASON

The Commons disagree to Lords Amendment 15 for the following Reason –

- 15A** *Because the consents required by it are inappropriate for guidance relating to matters which are not devolved in Scotland, Wales or Northern Ireland.*

LORDS AMENDMENT 42

Clause 42

- 42** Leave out Clause 42

COMMONS REASON

The Commons disagree to Lords Amendment 42 for the following Reason –

- 42A** *Because clause 42 protects Northern Ireland’s place in the United Kingdom’s customs territory, as provided for under the Northern Ireland Protocol.*

LORDS AMENDMENT 43

Clause 43

- 43** Leave out Clause 43

COMMONS DISAGREEMENT AND AMENDMENTS TO THE WORDS SO RESTORED TO THE BILL

The Commons disagree to Lords Amendment 43 and propose the following Amendments to the words so restored to the Bill –

- 43A** 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.”
- 43B** 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).”

LORDS AMENDMENT 44

Clause 44

- 44** Leave out Clause 44

COMMONS REASON

The Commons disagree to Lords Amendment 44 for the following Reason –

- 44A** *Because the regulation-making power conferred by clause 44 provides a necessary safety net to ensure Ministers can secure that qualifying Northern Ireland goods have full, unfettered access to the whole of the UK internal market.*

LORDS AMENDMENT 45

Clause 45

- 45** Leave out Clause 45

COMMONS REASON

The Commons disagree to Lords Amendment 45 for the following Reason –

- 45A** *Because it is necessary for the Secretary of State to have the power to ensure there is no confusion or ambiguity in UK law about the interpretation of Article 10 of the Northern Ireland Protocol.*

LORDS AMENDMENT 46

Clause 46

- 46** Leave out Clause 46

COMMONS REASON

The Commons disagree to Lords Amendment 46 for the following Reason –

- 46A** *Because it is necessary to codify in legislation the existing practice, whereby aid is notified to the European Commission by the Foreign Secretary through the United Kingdom Mission in Brussels.*

LORDS AMENDMENT 47

Clause 47

- 47** Leave out Clause 47

COMMONS REASON

The Commons disagree to Lords Amendment 47 for the following Reason –

- 47A** *Because the Commons consider it necessary, in order to avoid confusion in domestic law about clauses 44 and 45 and regulations made under them and provide clarity for courts, businesses, and public bodies, for those clauses and regulations to have effect notwithstanding possible inconsistency or incompatibility with any relevant national or international law.*

LORDS AMENDMENTS 48 AND 49

Clause 48

- 48** Leave out Clause 48

Clause 49

- 49** Leave out Clause 49

COMMONS REASON

The Commons disagree to Lords Amendments 48 and 49 for the following Reason –

- 48A** *Because they would alter financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS AMENDMENT 50

After Clause 49

50 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 50 for the following Reason—

50A *Because it would involve a charge on the public funds and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS AMENDMENT 51

Clause 50

51 Leave out Clause 50

COMMONS REASON

The Commons disagree to Lords Amendment 51 for the following Reason—

- 51A** *Because it is necessary to reserve to the United Kingdom Parliament the right to legislate for a system to regulate the provision by public bodies of subsidies which are or may be distortive or harmful and to avoid the risk of inconsistent regulation of such subsidies in the different parts of the United Kingdom.*

LORDS AMENDMENTS 57 AND 61

Schedule 3

- 57** 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.””
- 61** 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.””

COMMONS REASON

The Commons disagree to Lords Amendments 57 and 61 for the following Reason –

- 57A** *Because the existing functions of the Competition and Markets Authority and the functions under Part 4 need to be kept separate and it is inappropriate for the devolved authorities to appoint members of the Board of that Authority.*

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BILL

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