

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 2)

UNITED KINGDOM INTERNAL MARKET BILL

1. This legislative consent memorandum is laid under Standing Order 29.2. Standing Order 29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The United Kingdom Internal Market Bill ("the Bill") was introduced in the House of Commons on 9 September 2020. The Bill has now completed its Report stage in the House of Lords and is expected to receive its Third Reading on 2 December. The Bill can be found at:
<https://services.parliament.uk/Bills/2019-21/unitedkingdominternalmarket.html>

Policy Objective(s)

3. The UK Government's stated policy objectives are:
 - a) to continue to secure economic opportunities across the United Kingdom;
 - b) to continue to increase competitiveness and enable citizens across the UK to be in an environment that is the best place in the world to do business; and
 - c) to continue to provide for the general welfare, prosperity, and economic security of all UK citizens.

Summary of the Bill

4. The Bill is sponsored by the Department for Business, Energy and Industrial Strategy.
5. The key provisions of the Bill as originally introduced in the House of Commons cover:
 - a) The principles of mutual recognition and non-discrimination of goods and services, forming the Market Access Commitment, which would apply across the UK;

- b) Modifications to the market access commitment principles, designed to give effect to providing unfettered access of qualifying goods from Northern Ireland to Great Britain;
- c) The recognition of professional qualifications across the UK;
- d) The Competition and Markets Authority (CMA) which would be provided with new functions, including monitoring the health of the internal market and advising and reporting on proposals and regulations and their potential or actual impact on the UK Internal Market;
- e) Measures which take steps to “clarify specific elements of the Northern Ireland Protocol in domestic law, concerning tariffs, export procedures and state aid, to remove any ambiguity”;
- f) Provisions to “ensure a uniform approach across the UK” to the application of EU State aid law under Article 10 of the Northern Ireland Protocol;
- g) The power to enable UK Government Minister to provide financial assistance to persons in any part of the UK to promote economic development, infrastructure, culture and sport, as well as educational and training activities;
- h) Specific amendment of the Government of Wales Act 2006, Scotland Act 1998, and the Northern Ireland Act 1998 to include the regulation of subsidies as a reserved matter.

Update on the position since the publication of the first Legislative Consent Memorandum

- 6. The Welsh Government laid a Legislative Consent Memorandum on 25 September 2020, based on the Bill as introduced into Parliament on 9 September 2020.
- 7. This Supplementary Legislative Consent Memorandum (Memorandum No. 2) updates the Senedd on the amendments made to the Bill up to the House of Lords Report Stage. These amendments cover both government and non-government amendments.
- 8. Our view on the unnecessary and damaging nature of this Bill has not changed.

Amendments to note since the publication of the first Legislative Consent Memorandum, for which consent is required

9. Consent is required for the Bill as a whole due to Clause 48 of the Bill, which seeks to amend paragraph 5 of Schedule 7B to the Government of Wales Act 2006 so that the entire Bill is specified as a protected enactment. Each provision will therefore modify the legislative competence of the Senedd by adding to the category of legislation that it cannot amend and therefore engage standing order 29.1(ii).
10. In addition, a number of clauses in the Bill also engage standing order 29.1(i) on the basis that they make provision in relation to Wales for any purpose within the legislative competence of the Senedd, by (among other things) making provision in relation to the regulation of goods, services or professions that fall within the legislative competence of the Senedd. Further information about those clauses and the accompanying analysis can be found in the first Memorandum. These clauses were therefore also considered to require consent by virtue of standing order 29.1(i).
11. A number of amendments have been made to the Bill during both the House of Lords Committee and Report stage. These amendments are described at Annex A. Clause numbers relate to the latest version of the Bill. It is not yet known which, if any, of these amendments will remain in the Bill.
12. This Supplementary Legislative Consent Memorandum sets out our position on these amendments.
13. Where amendments have been made to clauses which were in the Bill on Introduction and were identified in the first Legislative Consent Memorandum as engaging standing order 29.1(i), there is no change to our position that these clauses require the consent of the Senedd by virtue of standing order 29.1(i).
14. In the case of amendments which insert new clauses, our position as to the engagement of standing order 29.1(i) is set out at Annex A.

Welsh Government position on the amendments made to the Bill

15. The Bill has been significantly amended by the House of Lords at both Committee and Report stage.
16. We are encouraged by the direction the Bill has taken during its passage through the House of Lords, and we welcome the engagement and interest in the Bill demonstrated by the Lords. A number of the Lords' amendments replicate the Welsh Government's model amendments (published 15 October) and we very much welcome their inclusion in the Bill.

17. However, we expect the Bill to continue to change and evolve past Third Reading.

Financial implications

18. It is unclear on the face of the Bill whether there will be direct financial implications for the Welsh Government or the Senedd arising from the powers under the Bill.

19. As it stands, the original Part 6 of the Bill on Financial Assistance Powers has been removed.

Conclusion

20. As set out above, the Senedd's consent is required for the United Kingdom Internal Market Bill. We remain committed to the Union and we have been clear that we are not opposed to the view that there is an internal market in the United Kingdom that needs to be protected. We have also been clear that we are not opposed to a UK-wide subsidy regime.

21. While we welcome the changes made to the Bill as it stands, we expect further changes and amendments to be made after the Bill's Third Reading.

22. A key concern for the Welsh Government is that the entirety of the Bill has been designated a protected enactment. No amendment was tabled in respect of the Bill's status and this provision therefore still stands. This, as well as the amendments already made, would need to be addressed before the Welsh Government could consider recommending consent.

23. Given the number of amendments made to the Bill and defeats suffered by the UK Government, it is clear that the Bill as originally introduced to the House of Commons was deeply flawed. A wise government would listen to the many widespread criticisms the Bill has received.

24. We will continue to monitor the Bill's developments and update the Senedd as appropriate.

Jeremy Miles MS

Counsel General and Minister for European Transition

3 December 2020

ANNEX A

Amendments to the UK Internal Market Bill

(Note – unless otherwise stated, references to clause numbers are to those in the Bill as amended on Report)

Part 1 – UK Market Access: Goods

1. Clause 2 (new clause) (common frameworks process) (HL Report) (Non-Gov):

This new clause provides that 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. It also provides that 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.

2. This new clause engages matters within the legislative competence of the Senedd and therefore requires the consent of the Senedd under standing order 29.1(i).

Clause 3 (the mutual recognition principle for goods)

3. Technical amendments to Clause 3(1)(b) and 3(2) (HC Committee) (Gov)

Clause 4 (relevant requirements for the purposes of section 3)

4. Technical amendments to Clause 4(1) and (2) (HL Committee) (Gov)
5. Removal of sub-clauses (3) and (5) as introduced (HC Report) (Gov)
6. Insertion of new sub-clauses (4) to (6) (HC report) (Gov):

The amendment makes clear that manner of sale requirements are outside the scope of the mutual recognition principle. The definition of “manner of sale requirement” is intended to clarify that manner of sale requirements include pricing requirements, for example Minimum Unit Alcohol Pricing or plastic bag charges, which are therefore not in scope of the mutual recognition principle. The only exception will be where a requirement appears to be designed artificially to present something that would otherwise be a relevant requirement in the form of a manner of sale requirement.

7. Removal of Clause 4(8) to (10) (HL Report) (Non-Gov):

This amendment would remove the power to amend Clause 4(3)

Clause 5 (exclusion of certain requirements existing before commencement)

8. Technical amendments to Clause 5(1) and (5) (HL Committee) (Gov)

Clause 7 (relevant requirements for the purposes of the non-discrimination principle)

9. Amendments to Clause 7(3)(a) related to new clause 4(4) to (6) (HC Report) (Gov)

10. Removal of Clause 7(5) to (7) (HL Report) (Non-Gov):

This amendment would remove the power to amend clause 7(3)

Clause 8 (the non-discrimination principle: direct discrimination)

11. Technical amendments to Clause 8(4) (HC Report) (Gov)

Clause 9 (the non-discrimination principle: indirect discrimination)

12. Removal of Clause 9(7) and (8) (HL Report) (Non-Gov):

This amendment would remove the power to amend Clause 9(6)

13. Amendment inserting new subsection after Clause 9(8). (HL Report) (Gov)

This amendment would require the Secretary of State to consult the devolved administrations before making regulations amending the “legitimate aims” in Clause 9 (which can mean that provision does not count as indirectly discriminatory against goods).

14. Amendment inserting new subsections after clause 9(8) (HL Report) (Non-Gov):

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

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

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

Clause 11 (exclusions from market access principles: public interest derogations)

15. Removal of original Clause 10 (further exclusions from market access principles) and replacement with new Clause (now clause 11) (exclusions from market access principles: public interest derogations) (HL Report) (Non- Gov)

“(1) The United Kingdom market access principles do not apply to, and sections 3(3) and 6(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.”

16. This new clause engages matters within the legislative competence of the Senedd and therefore requires the consent of the Senedd under standing order 29.1(i).

17. Removal of Clause 10(2) and (3) (as introduced) (HL Report) (Non – Gov):

This amendment would remove the power to amend Schedule 1

18. Amendment inserting new subsection after Clause 10(3) (as introduced) (HL Report) (Gov):

This amendment would require the Secretary of State to consult the devolved administrations before making regulations amending Schedule 1 (which contains exceptions from the rules about market access for goods).

19. Amendment inserting new subsections after Clause 10(3) (as introduced) (HL Report) (Non – gov):

“(3A) Before making regulations under subsection (2) the Secretary of State must obtain the consent of the Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland.

(3B) But the Secretary of State may make regulations under subsection (2) without the consent required by subsection (3A) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.¹

(3C) If the Secretary of State makes regulations without the consent required by subsection (3A), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with making the regulations.”

Schedule 1 (exclusions from market access principles) (introduced by original clause 10 – now removed)

20. Amendment to paragraph 1(1) (HC Committee) (Gov):

This amendment means that measures aimed at preventing the spread of pests or diseases are capable of being excluded from the non-discrimination principle for goods (as well as the mutual recognition principle for goods).

21. Insertion of new paragraph 1(7) (HC Committee) (Gov):

This amendment means that, in assessing whether a measure aimed at preventing the spread of pests or diseases can reasonably be justified as necessary, account will be taken of whether similar threats are addressed with similar severity

22. Insertion of new paragraphs 9 and 10 (HC Committee) (Gov):

This amendment excludes certain measures in relation to fertilisers and pesticides from the operation of the mutual recognition principle for goods.

Clause 12 (modifications in connection with the Northern Ireland protocol)

23. Insertion of new clause 12(6) and (7) (HC Report) (Gov):

This amendment modifies the exclusion in paragraph 1 of Schedule 1 so that it applies to threats posed by pests or diseases that are or may be transmitted in qualifying Northern Ireland goods (without necessarily being established in Northern Ireland).

24. Amendment of Clause 12(8) (HL Report) (Non – Gov):

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

¹ Amendments referred to at paragraphs 17, 18 and 19 related to Clause 10 of the Bill. They have been included here for the sake of completeness, but note that they were removed as per paragraphs 15 and 16 above.

Clause 13 (Guidance relating to part 1)

25. New clause inserted (HC Committee) (Gov)

26. Amendment to Clause 13, inserting new subsections after subsection (4) (HL Report) (Non-gov):

This amendment ensures that the Secretary of State must consult with the devolved administrations before revising or withdrawing guidance under Clause 13.

27. After clause 13, the insertion of a new Clause 14 (duty to review the use of Part 1 amendment powers) (HL Report) (Gov):

This new Clause would require the Secretary of State to carry out a review of, and to lay a report to Parliament about, the use made of the amendment powers in Part 1. The review cannot start within three years of Royal Assent, and the steps required would need to be completed within five years.

28. As it is considered that the amendment powers in Part 1 engage matters within the legislative competence of the Senedd, this new clause also engages matters within the legislative competence of the Senedd and therefore requires the consent of the Senedd under standing order 29.1(i).

Clause 17 (interpretation of other expressions used in Part 1)

29. Amendment to clause 17(2) (HC Committee) (Gov):

The amendment clarifies that “goods” for the purposes of Part 1 includes their packaging and any label attached to them.

30. Amendment to clause 17(3) and insertion of new clause 17(4) to (7) (HC Committee) (Gov):

These amendments clarify the rule for determining whether goods have been produced in a part of the United Kingdom for the purposes of Part 1.

31. Insertion of new Clause 17(11) (linked to removal of clause 3(5)) (HC Report) (Gov)

32. Insertion of new Clause 17(13) (definition of “contravening”) (HC Report) (Gov)

Part 2 – UK Market Access: Services

33. Insertion of new clause 21 (Common frameworks process) (HL Report) (Non – Gov):

“(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.”

34. This new clause engages matters within the legislative competence of the Senedd and therefore requires the consent of the Senedd under standing order 29.1(i).

Clause 18 (Services: overview)

35. Technical amendment to clause 18(2) (HC Committee) (Gov)

36. Technical amendments to clause 18(5) (HC Committee) (Gov)

37. Insertion of new clause 18(6) and (7) (HC Committee) (Gov):

This amendment brings a requirement into the scope of Part 2 if a corresponding requirement in another part of the UK was substantively changed after the section comes into force.

38. Insertion of new Clause 18 (8) (HC Report) (Gov):

This amendment ensures changes to the conditions attached to authorisation requirements would bring the authorisation requirement (and corresponding authorisation requirements) within the scope of Part 2.

Clause 19 (services: exclusions)

39. Removal of Clause 19(2) to (4) (HL Report) (Non – Gov):

This amendment removed the power to amend Schedule 2.

Schedule 2 (services exclusions)

40. Amendments to Parts 1 and 2 (addition of notarial services) (HC Committee) (Gov)

Clause 23 (indirect discrimination in the regulation of services)

41. Amendment Clause 23(1) (HL Committee) (Gov):

This amendment makes clear that Clause 23 is concerned with incoming service providers.

42. Amendment to Clause 23(2) (HL Committee) (Gov):

This amendment would treat the concept of unequal treatment (or relevant disadvantage) as a test separate from adverse market effect

43. Replacement of clause 19(3) to (5) (as introduced) with new clause 23(3) to (6) (HL Committee) (Gov)

These amendments define the concept of relevant disadvantage and rephrase what is meant by “disadvantage” and “adverse market effect” in light of the addition of the concept of relevant disadvantage.

44. Removal of original subsections (8) and (9) (HL Report) (Non – Gov)

This amendment removed the power to amend Clause 23(7)

45. New subsection inserted at clause 23(8) (HL Report) (Gov):

This amendment would require the Secretary of State to consult the devolved administrations before making regulations amending the “legitimate aims” in Clause 23 (which can mean that provision does not count as indirectly discriminatory against service providers).

46. Insertion of new subsections after Clause 23(8) (HL Report) (Non – Gov):

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

(10) But the Secretary of State may make regulations under subsection (subsection removed) without the consent required by subsection (9) if that consent is not given within the period of one month beginning with the day on which the Secretary of State requests it.

(11) If the Secretary of State makes regulations without the consent required by subsection (9), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with making the regulations.”

47. Removal of Clause 20 as introduced (definition of regulator) (HC Committee) (Gov)

New clause 24 (duty to review the use of Part 2 amendment powers)

48. New clause 24 inserted (HL Report) (Gov):

This new Clause 24 would require the Secretary of State to carry out a review of, and to lay a report to Parliament about, the use made of the amendment powers in Part 2. The review cannot start within three years of Royal Assent, and the steps required would need to be completed within five years.

49. As it is considered that the amendment powers in Part 2 engage matters within the legislative competence of the Senedd, this new clause also engages matters within the legislative competence of the Senedd and therefore requires the consent of the Senedd under standing order 29.1(i).

Clause 25 (interpretation of Part 2)

50. Amendments to clause 25(1) (HC Committee) (Gov):

This amendment is consequential on the omission of clause 20 as introduced (definition of “regulator”)

51. Insertion of new clause 25(2) and (3) (HC Report) (Gov):

This amendment deals with a case where a regulator has an obligation to apply discriminatory requirements.

52. Insertion of new clause 25(4) (HC Committee) (Gov):

This amendment ensures that a service provider may rely on an authorisation based on discriminatory requirements when demonstrating existing authorisations for mutual recognition.

Part 3 – Professional Qualifications and Regulation

Clause 29 (other exceptions from section 26)

53. Amendment to Clause 29(7) (definition of “legal profession”) to include profession of patent attorney or trade mark attorney (HL Committee) (Gov)

54. Amendment to clause 29(8) (HL Report) (Gov):

This amendment adds school teaching to the professions the regulation of which is excluded from Clause 29.

55. Insertion of new subsection 29(6):

“(6) Section 26(2) does not apply if the provision has been agreed through the common frameworks process.”

Clause 31 (interpretation of Part 3)

56. Technical amendment to clause 31(1)(c) (HC Committee) (Gov)

57. Insertion of new clause 31(2) (HL Committee) (Gov):

This amendment would provide that provision imposing qualification requirements on particular professional activities falls within Clause 26

only if the activities are, in a significant number of cases, essential to the practice of the profession in question.

Part 4: Independent Advice on and Monitoring of UK Internal Market

58. Insertion of new clause 33 (Objective and general functions) (HC Report) (Gov):

This new clause makes provision about the objective to which the Competition and Markets Authority must have regard in carrying out its functions under Part 4, and the application of certain general functions of the CMA in relation to its functions under Part 4.

59. The provisions in this new clause 33 create functions which concern matters within the legislative competence of the Senedd. As a result, the consent of the Senedd is required under standing order 29.1(i).

60. Insertion of new subsection Clause 33(3) (HL Report) (Gov):

This amendment would set out in more detail the considerations that the CMA (including while acting through the Office for the Internal Market) must have regard to in exercising its functions under Part 4.

61. Insertion of new clause 34 (Office for the Internal Market panel and task groups) (HC Report) (Gov):

This new clause enables functions of the Competition and Markets Authority under Part 4 to be carried out on the authority's behalf by Office for the Internal Market task groups constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013

62. The provisions in this new clause create functions which concern matters within the legislative competence of the Senedd. As a result, the consent of the Senedd is required under standing order 29.1(i).

63. Insertion of new Schedule 3 (Constitution etc of Office for the Internal Market panel and task groups) (HC Report) (Gov):

This new schedule is about the constitution of Office for the Internal Market task groups, to which functions of the Competition and Markets Authority may be delegated by virtue of the new clause 34, and the establishment of a panel from whose members such groups may be selected.

64. The Schedule provides the Devolved Governments with a consultee role where the Secretary of State intends to appoint to the OIM Panel.

65. The provisions in this Schedule create functions which concern matters within the legislative competence of the Senedd. As a result, the consent of the Senedd is required under standing order 29.1(i).

66. In Schedule 3, insertion of new paragraph 2(4) (HL Report) (Gov):

The amendment would require the Secretary of State to have regard to the desirability of having a variety of skills, knowledge and experience in the Office for the Internal Market panel and for a balance between members with specific skills, knowledge or experience in the internal market as operating in different parts of the United Kingdom.

67. In Schedule 3, insertion of new paragraph 2(3) (HL Report) (Non – Gov):

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

68. In Schedule 3, amendment to paragraph 2(4) (HL Report) (Gov):

The amendment would require the Secretary of State to seek the consent of the devolved administrations to any proposed appointment to the OIM panel.

69. In Schedule 3, further amendment to paragraph 2(4) (HL Report) (Non-Gov):

The amendment would give the Secretary of State the option to proceed with an appointment to the OIM panel after an interval of at least one month, even if one or more of the devolved administrations have not given their consent

70. In Schedule 3, amendment of paragraph 5 to insert new subparagraph (3) (HL Report) (Non – Gov):

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.

71. New clause 42 (laying of annual documents before devolved legislatures) (HL Report) (Gov):

This new Clause 42 would require the CMA to lay its annual plan, proposals for its annual plan and its performance report before the devolved legislatures as well as Parliament.

72. The provisions in this new clause create functions which concern matters within the legislative competence of the Senedd. As a result, the consent of the Senedd is required under standing order 29.1(i).

Clause 44 (enforcement)

73. Amendment to clause 44(9) (HL Report) (Gov):

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 45 (penalties)

74. Amendment to clause 45(8) (HL Report) (Gov):

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.

Clause 46 (interpretation of Part 4)

75. Amendments to clause 46(5) and removal of clause 39(7) (as introduced) and insertion of new clause 46(7) to (11) (HC Report) (Gov):

These amendments widen certain references to competence in Part 4 so that executive competence (as well as legislative competence) in each jurisdiction is included.

[Part 5: Northern Ireland Protocol (as introduced): Removed (HL Committee) (Non-Gov)]

Part 5 – Financial Assistance Powers (as introduced)

76. Clauses 42 and 43 (as introduced) removed (HL Report) (Non – gov)

Clause 47 - State aid and the Office for the Internal Market

77. New clause 47 inserted (HL Report) (Non-Gov):

“(1) Within the period of six months beginning with the day on which section 34 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 34 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.”

78. The provisions in this new clause create functions which concern matters within the legislative competence of the Senedd. As a result, the consent of the Senedd is required under standing order 29.1(i).

Part 6 – Final Provisions (including subsidy regulation)

Clause 44 (regulation of distortive or harmful subsidies) (as introduced)

79. Clause removed (HL Report) (Non – Gov)

Clause 49 (further provision in connection with the Northern Ireland Protocol)

80. Amendments to clause 49 (HL Report) (Non – gov):

These amendments are consequential on the removal of Part 5 (Northern Ireland Protocol) at Committee Stage.