

**MEMORANDWM CYDSYNIAD DEDDFWRIAETHOL ATODOL  
(MEMORANDWM RHIF 2)**

**BIL MARCHNAD FEWNOL Y DEYRNAS UNEDIG**

1. Gosodir y memorandwm cydsyniad deddfwriaethol hwn o dan reol sefydlog 29.2. Mae rheol sefydlog 29 yn rhagnodi bod yn rhaid gosod memorandwm cydsyniad deddfwriaethol, ac y ceir cyflwyno cynnig cydsyniad deddfwriaethol, gerbron Senedd Cymru ("y Senedd" o hyn ymlaen) os yw Bil gan Senedd y DU yn gwneud darpariaeth mewn perthynas â Chymru at ddiben sydd o fewn cymhwysedd deddfwriaethol y Senedd, neu at ddiben sy'n addasu'r cymhwysedd hwnnw.
2. Cafodd Bil Marchnad Fewnol y Deyrnas Unedig ("y Bil") ei gyflwyno yn Nhŷ'r Cyffredin ar 9 Medi 2020. Mae cam Adroddiad y Bil yn Nhŷ'r Arglwyddi bellach wedi'i gwblhau ac mae disgwyl i'r Trydydd Darlleniad gael ei gynnal ar 2 Rhagfyr. Mae'r Bil ar gael yma:  
<https://services.parliament.uk/Bills/2019-21/unitedkingdominternalmarket.html>.

**Amcan(ion) Polisi**

3. Mae Llywodraeth y DU wedi datgan yr amcanion polisi canlynol:
  - a) parhau i sicrhau cyfleoedd economaidd ledled y Deyrnas Unedig;
  - b) parhau i gynyddu cystadleurwydd a galluogi dinasyddion ledled y DU i fod yn yr amgylchedd gorau yn y byd i wneud busnes;
  - c) parhau i ddarparu ar gyfer lles cyffredinol, ffyniant, a sicrwydd economaidd holl ddinasyddion y DU.

**Crynodeb o'r Bil**

4. Noddir y Bil gan yr Adran Busnes, Ynni a Strategaeth Ddiwydiannol.
5. Mae darpariaethau allweddol y Bil fel y'i cyflwynwyd yn wreiddiol yn Nhŷ'r Cyffredin yn ymdrin â'r canlynol:
  - a) Egwyddorion cydnabyddiaeth gilyddol a pheidio â gwahaniaethu ar gyfer nwyddau a gwasanaethau, gan ffurfio'r Ymrwymiad Mynediad i'r Farchnad, a fyddai'n gymwys ar draws y DU;
  - b) Addasiadau i egwyddorion yr ymrwymiad mynediad i'r farchnad, er mwyn rhoi effaith i ddarparu mynediad dirwysr ar gyfer nwyddau cymwys o Ogledd Iwerddon i Brydain Fawr;

- c) Cydnabod cymwysterau proffesiynol ledled y DU;
- d) Yr Awdurdod Cystadleuaeth a Marchnadoedd (CMA) y byddai swyddogaethau newydd yn cael eu darparu iddo, gan gynnwys monitro iechyd y farchnad fewnol a chynghori ac adrodd ar gynigion a rheoliadau a'u heffaith bosibl neu wirioneddol ar Farchnad Fewnol y DU;
- e) Mesurau sy'n cymryd camau i "egluro elfennau penodol o Brotocol Gogledd Iwerddon o dan gyfraith ddomestig, ynghylch tariffau, gweithdrefnau allforio a chymorth gwladwriaethol, er mwyn dileu unrhyw amwysedd";
- f) Darpariaethau i "sicrhau dull unffurf ledled y DU" o ran gweithredu cyfraith cymorth Gwladwriaethol yr UE o dan Erthygl 10 o Brotocol Gogledd Iwerddon;
- g) Y pŵer i alluogi un o Weinidogion Llywodraeth y DU i ddarparu cymorth ariannol i bersonau yn unrhyw ran o'r DU i hybu datblygu economaidd, seilwaith, diwylliant a chwaraeon, yn ogystal â gweithgareddau addysg a hyfforddiant;
- h) Diwygiad penodol i Ddeddf Llywodraeth Cymru 2006, Deddf yr Alban 1998, a Deddf Gogledd Iwerddon 1998 i gynnwys rheoleiddio cymorthdaliadau ymysg y materion a gedwir yn ôl.

### **Yr wybodaeth ddiweddaraf am y sefyllfa ers cyhoeddi'r Memorandwm Cydsyniad Deddfwriaethol cyntaf**

- 6. Gosododd Llywodraeth Cymru Femorandwm Cydsyniad Deddfwriaethol gerbron y Senedd ar 25 Medi 2020, yn seiliedig ar y Bil fel y'i cyflwynwyd yn Senedd y DU ar 9 Medi 2020.
- 7. Mae'r Memorandwm Cydsyniad Deddfwriaethol Atodol hwn (Memorandwm Rhif 2) yn rhoi'r wybodaeth ddiweddaraf i'r Senedd am y gwelliannau sydd wedi'u gwneud i'r Bil hyd at Gam Adroddiad Tŷ'r Arglwyddi. Mae'r gwelliannau hyn yn cynnwys gwelliannau gan y llywodraeth a gwelliannau nad oeddent gan y llywodraeth.
- 8. Nid yw ein barn ar natur ddiangen a niweidiol y Bil wedi newid.

### **Gwelliannau i'w nodi ers cyhoeddi'r Memorandwm Cydsyniad Deddfwriaethol cyntaf, y mae angen cydsyniad ar eu cyfer**

- 9. Mae angen cydsyniad ar gyfer y Bil cyfan oherwydd cymal 48 o'r Bil sy'n ceisio diwygio paragraff 5 o Atodlen 7B i Ddeddf Llywodraeth Cymru 2006 fel y bydd y Bil cyfan yn cael ei bennu'n ddeddfiad gwarchoddedig. Felly,

bydd pob darpariaeth yn addasu cymhwysedd deddfwriaethol y Senedd drwy ychwanegu at y categori o ddeddfwriaeth na chaiff ei diwygio, ac felly mae rheol sefydlog 29.1(ii) yn gymwys iddynt.

10. Yn ogystal, mae rheol sefydlog 29.1(i) yn gymwys i sawl cymal yn y Bil gan eu bod yn gwneud darpariaeth mewn perthynas â Chymru at ddiben sydd o fewn cymhwysedd deddfwriaethol y Senedd, drwy (ymysg pethau eraill) wneud darpariaeth mewn perthynas â rheoleiddio nwyddau, gwasanaethau neu broffesiynau sydd o fewn cymhwysedd deddfwriaethol y Senedd. Mae rhagor o wybodaeth am y cymalau hyn a'r dadansoddiad cysylltiedig ar gael yn y Memorandwm cyntaf. Ystyriwyd felly fod angen cydsyniad ar gyfer y cymalau hyn hefyd yn rhinwedd rheol sefydlog 29.1(i).
11. Mae nifer o welliannau wedi'u gwneud i'r Bil yn ystod cam Pwyllgor a cham Adroddiad Tŷ'r Arglwyddi. Caiff y gwelliannau hyn eu disgrifio yn Atodiad A. Mae rhifau cymalau yn cyfeirio at y fersiwn ddiweddaraf o'r Bil. Nid yw'n hysbys eto a fydd unrhyw rai o'r gwelliannau hyn yn aros yn y Bil, ac os felly pa rai.
12. Mae'r Memorandwm Cydsyniad Deddfwriaethol Atodol hwn yn nodi ein safbwynt ar y gwelliannau hyn.
13. Pan fo gwelliannau wedi'u gwneud i gymalau a oedd yn y Bil fel y'i cyflwynwyd ac a nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol cyntaf fel rhai y mae rheol sefydlog 29.1(i) yn gymwys iddynt, nid yw ein safbwynt wedi newid o ran bod angen cydsyniad y Senedd ar gyfer y cymalau hyn yn rhinwedd rheol sefydlog 29.1(i).
14. Yn achos gwelliannau sy'n mewnosod cymalau newydd, nodir yn Atodiad A ein safbwynt o ran a yw rheol sefydlog 29.1(i) yn gymwys iddynt.

### **Safbwynt Llywodraeth Cymru ar y gwelliannau a wnaed i'r Bil**

15. Mae Tŷ'r Arglwyddi wedi gwneud gwelliannau sylweddol i'r Bil yn y cam Pwyllgor a'r cam Adroddiad.
16. Mae trywydd y Bil wrth fynd drwy Dŷ'r Arglwyddi wedi ein calonogi, ac rydym yn croesawu ymgysylltiad a diddordeb yr Arglwyddi yn y Bil. Mae llawer o welliannau'r Arglwyddi yn adlewyrchu gwelliannau arfaethedig Llywodraeth Cymru (a gyhoeddwyd ar 15 Hydref) ac rydym yn croesawu'n fawr y ffaith eu bod wedi'u cynnwys yn y Bil.
17. Fodd bynnag, rydym yn disgwyl i'r Bil barhau i newid ac esblygu ar ôl y Trydydd Darlleniad.

## **Goblygiadau ariannol**

18. Nid yw'n glir ar wyneb y Bil a fydd goblygiadau ariannol uniongyrchol i Llywodraeth Cymru neu'r Senedd yn deillio o'r pwerau o dan y Bil.
19. Fel y mae'r Bil ar hyn o bryd, mae'r Rhan 6 wreiddiol o'r Bil ar Bwerau Cymorth Ariannol wedi'i dileu.

## **Casgliad**

20. Fel y nodir uchod, mae angen cydsyniad y Senedd ar gyfer Bil Marchnad Fewnol y Deyrnas Unedig. Rydym wedi ymrwymo o hyd i'r Undeb ac rydym wedi'i gwneud yn glir nad ydym yn gwrthwynebu'r safbwynt bod marchnad fewnol yn y DU sydd angen ei diogelu. Rydym hefyd wedi'i gwneud yn glir nad ydym yn gwrthwynebu cyfundrefn cymorthdaliadau ledled y DU.
21. Er ein bod yn croesawu'r newidiadau sydd wedi'u gwneud i'r Bil fel y mae, rydym yn disgwyl y bydd rhagor o newidiadau a gwelliannau yn cael eu gwneud ar ôl Trydydd Darlleniad y Bil.
22. Un o bryderon allweddol Llywodraeth Cymru yw bod y Bil cyfan wedi'i ddynodi'n ddeddfiad gwarchoddedig. Ni chyflwynwyd gwelliant mewn perthynas â statws y Bil ac felly mae'r ddarpariaeth hon yn dal i fod. Byddai angen rhoi sylw i hyn, ynghyd â'r gwelliannau sydd eisoes wedi'u gwneud, cyn y gallai Llywodraeth Cymru ystyried argymell cydsyniad.
23. O ystyried nifer y gwelliannau sydd wedi'u gwneud i'r Bil a'r achlysuron pan fo Llywodraeth y DU wedi'i threchu, mae'n glir bod diffygion mawr yn y Bil fel y'i cyflwynwyd yn wreiddiol yn Nhŷ'r Cyffredin. Byddai llywodraeth ddoeth yn gwrandao ar y beirniadaethau eang niferus sydd wedi bod am y Bil.
24. Byddwn yn parhau i fonitro datblygiadau'r Bil a rhoi'r wybodaeth ddiweddaraf i'r Senedd fel y bo'n briodol.

**Jeremy Miles AS**

**Y Cwnsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd  
3 Rhagfyr 2020**

***(Saesneg yn unig)***

## **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.<sup>1</sup>

(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):

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<sup>1</sup> 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.



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

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.