

United Kingdom Internal Market Bill

Introduction

With the United Kingdom Internal Market Bill, the UK Government intends to set up the arrangements for trading among the four countries of the UK after the Brexit transition period ends, and to restrict the way that powers held by the devolved administrations can operate in practice.

The Bill proposes to introduce measures to create a coherent approach to market access and support for the UK internal market by establishing principles of mutual recognition and non-discrimination of goods and services.

Impact on the Good Friday Agreement

The section of the Bill which has received greatest criticism is that relating to Northern Ireland.

Clause 41 of the Bill requires the Ministers of the devolved administrations and Ministers of the Crown not to exercise any function in any way that would result in a 'kind of NI-GB check, control or administrative process being used'. Clause 42 gives Ministers of the Crown the power to disapply or modify the requirement for export declarations or other exit procedures. The UK Government believes these measures are necessary, as without these modifications, the Northern Ireland Protocol provides that EU customs legislation will apply to the UK in respect of Northern Ireland, meaning goods leaving Northern Ireland and travelling to other parts of the UK would be subject to export declarations.

The EU Commission has issued a statement declaring that 'if the Bill were to be adopted, it would constitute an extremely serious violation of the Withdrawal Agreement and of international law'. That the Bill would break international law is also accepted by the Westminster Government.

For this reason the Bill has drawn criticism from all five living former prime ministers: John Major, Tony Blair, Gordon Brown, David Cameron and Theresa May.

These clauses have also led to suggestions that the USA would not be willing to agree a trade deal with the UK should they be enacted.

Reaction from the Devolved Governments

In Northern Ireland, First Minister Arlene Foster has said that "businesses needed 'unfettered access' to the market in Britain alongside guarantees that Northern Ireland firms would not be discriminated against."

The Scottish Government rejected the UK Government's internal market plans since they were first proposed in July 2020, with First Minister of Scotland Nicola Sturgeon quoted as saying that the plans are "riding roughshod over the powers of the Scottish Parliament". The Scottish Government has not ruled out legal action.

The Welsh Government has described it as 'an attack on democracy and an affront to the people of Wales, Scotland and Northern Ireland' and accused Westminster of 'stealing powers'. First Minister of Wales Mark Drakeford called the UK Government's internal market plans a "power grab".

Mutual Recognition of Qualifications

Of particular interest to the teaching profession is the section of the Bill that seeks to introduce a system for the mutual recognition of professional qualifications across the UK. This will allow professionals qualified in one of the four UK nations to access the same profession in a different nation without needing to requalify.

These provisions will only apply in relation to professions for which new qualifications or experience requirements are introduced, or existing ones changed, in any part of the UK.

The General Teaching Council for Scotland (GTCS) has warned that the Internal Market Bill 'poses a threat to the education system and the quality of teaching in Scottish schools'. This is, it believes, because Scotland will need to recognise the teaching qualifications and experience of teachers from England, Wales and Northern Ireland, despite the requirements needed to stand in front of a classroom in Scotland being substantially higher than elsewhere. They have also warned that it could mean having to accept 'unqualified' teachers into secondary schools.

The NASUWT has traditionally been supportive of the principle of the portability of qualifications and would welcome domestic legislation to replace EU laws on this issue that will no longer apply at the end of 2020.

In reality, it is unlikely that a future system would be significantly different from that currently in operation whereby qualified teachers from the UK are welcome to teach in Scotland. They must, however, submit an application to the GTCS for approval. Each application is assessed against GTCS Registration and Standard Rules.

The Union believes that while the additional investment made in the teaching workforce is very welcome, all routes to becoming a qualified teacher in each of the jurisdictions of the UK meet the required baseline standards.

Additionally, it is difficult to see how the lack of a qualification could ever fall under the scope of this legislation.

Progress of the Bill

The Bill has passed through all required stages in the House of Commons and is currently being examined in detail at Committee Stage in the House of Lords.

On 9 November 2020, the Government suffered a number of serious defeats in the House of Lords, with peers voting to remove the section of the Bill that would allow Ministers to break international law by 433 votes to 165.

Royal Assent will be sought by the Government before the end of the year, if possible.



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