PARLIAMENTARY DEBATES

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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

RETAINED EU LAW (REVOCATION AND REFORM) BILL

Seventh Sitting

Tuesday 29 November 2022

(Morning)

CONTENTS

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Saturday 3 December 2022

The Committee consisted of the following Members:

Chairs: Sir George Howarth, † Sir Gary Streeter

† Bacon, Gareth *(Orpington)* (Con)
† Bhatti, Saqib *(Meriden)* (Con)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Evans, Dr Luke *(Bosworth)* (Con)
† Fysh, Mr Marcus *(Yeovil)* (Con)
Ghani, Ms Nusrat *(Minister for Industry and Investment Security)*
† Glindon, Mary *(North Tyneside)* (Lab)
† Grant, Peter *(Glenrothes)* (SNP)
† Jones, Mr David *(Clwyd West)* (Con)
† Madders, Justin *(Ellesmere Port and Neston)* (Lab)
† Morrissey, Joy *(Beaconsfield)* (Con)
† Nici, Lia *(Great Grimsby)* (Con)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Randall, Tom *(Gedling)* (Con)
† Sobel, Alex *(Leeds North West)* (Lab/Co-op)
† Stuart, Graham *(Minister for Climate)*

Huw Yardley, Sarah Thatcher, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 29 November 2022

(Morning)

[Sir Gary Streeter *in the Chair*]

Retained EU Law (Revocation and Reform) Bill

Clause 16

Power to update

9.25 am

Brendan O'Hara (Argyll and Bute) (SNP): I beg to move amendment 70, in clause 16, page 18, line 25, at end insert—

"(1A) Before the power in subsection (1) may be exercised, the relevant national authority must publish a written statement on any societal and economic changes relevant to the intended modifications."

The Chair: With this it will be convenient to discuss clause stand part.

Brendan O'Hara: It is a pleasure to see you in the Chair, Sir Gary, for our final day of scrutiny of the Bill. The amendment was tabled in my name and that of my hon. Friend the Member for Glenrothes. It will be a relief to the Committee that I will be as brief as I can, as I know we have an awful lot to get through.

Clause 16 allows a relevant national authority to make modifications to secondary legislation that it considers appropriate, taking into account

"changes in technology, or…scientific understanding."

We do not disagree with that. Our amendment simply seeks to widen the scope of the clause by allowing relevant national authorities not just to consider changes in technology and developments in scientific understanding, but to take into account societal and economic changes that may be pertinent when making modifications to retained EU law.

It is the narrowness of the clause that concerns us the most. It has been highlighted as a potential problem by the Law Society of Scotland, which in its excellent briefing paper suggested widening the scope to reflect other factors and include economic or societal changes. It seems eminently sensible to include factors that go beyond science and technology. Whether we like it or not, things happen in society that we cannot reasonably predict. It would therefore be unwise for the legislation to be so completely straitjacketed that we could not react appropriately to unpredicted societal events.

Similarly, giving relevant national authorities the ability to pivot when changes to the economic circumstances dictate also seems logical. Imagine we had been examining the Bill before the summer, and I had tabled an amendment that would have allowed relevant national authorities the flexibility to consider changes in economic circumstances when considering retained EU law. Had I based my argument around a Conservative Prime Minister resigning and forcing a lengthy leadership election, and the arrival of a new Prime Minister who promptly tanked the economy and then resigned six weeks later, everyone on the Government Benches would have howled with derision, but that is precisely what happened.

As much as we like to think we know what is around the corner in terms of society and the economy, the truth is that we simply do not. That is why, again in the spirit of trying to be helpful and improve what is a thoroughly dreadful piece of legislation, I commend amendment 70 to the Government.

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Sir Gary. I was sorry to read that you may not be seeking re-election. I know that social media is not always truthful on such things, but what I read appeared to be legitimate, and I will be sorry to see you go. I welcome the Minister in the Jack Grealish role, coming in late in the day to retrieve a seemingly lost position for the Government.

I understand that we are dealing with clause 16 stand part as well as amendment 70. I thank the hon. Member for Argyll and Bute for moving the amendment, which is very similar to some of ours. It will be no surprise that we are sympathetic to and supportive of it, but to avoid repeating what we have said previously I will try to keep my statements brief. Government Members will be tired of hearing this, but those who are tired of scrutiny are tired of democracy itself, so I will yet again refer to the lack of scrutiny and consultation that are the hallmarks of the Bill.

Amendment 70 offers a means to address that problem in the specific and possibly limited circumstances in which clause 16 will apply. We know how often the Government like to use the phrase "specific and limited circumstances". The amendment contains the guiding principle of our new clause 9, which was previously debated: the Government and relevant national authorities need to address the impact of changes made by the use of the Bill's powers. Having Ministers of the Crown produce written statements about intended modifications will ensure not only that the societal and economic impacts of changes are considered, but that they are justified, which, as we have discussed, ought to provide a greater level of accountability. Despite the fact that the amendment could benefit from extra conditions—for example, mandating a programme of consultation with relevant stakeholders—it serves the purpose of demanding greater scrutiny. Given that the Government rejected our new clause, which previously requested that, I suspect we will not find favour with this one.

9.30 am

Throughout the sittings of this Committee, we have highlighted that the Bill is merely a framework that can give an alarming amount of power to the Executive. A similar concern applies to clause 16. That is not to say that the clause is unnecessary; it has similarities to previous clauses designed to deal with the fact that retained EU law is not a dynamic body of law anymore, but a snapshot of the law as it stood in December 2020. We therefore agree it is right that, in areas where there are technological improvements and breakthroughs in science, the law is adapted to reflect those changes. I am afraid, though, that the way in which Government propose to carry that out—not just in this clause but throughout the Bill—reflects their entire approach. There is a considerable lack of oversight of

"changes in technology, or…developments in scientific understanding."

There is no definition in the Bill of what those terms mean. That is made more striking by the fact that the Bill includes a stringent and comprehensive definition of what constitutes a burden, as we have debated previously.

It seems that the Government are keen to say what they believe in when it comes to watering down rights and regulations, but to leave gaping holes and ambiguities in relation to powers that transfer to Ministers. Our new clause would have addressed that, and stipulated that the relevant stakeholders were consulted and reports about modifications laid before the House. That would have gone a long way to resolve the problems and our concerns. Instead, we are again left with a clause that hands power directly to the relevant Minister, with approval made under the negative procedure.

We need to get to the bottom of who will decide what "changes" and "developments" are. Who will decide when the clause operates? Is this all in the eye of the Minister, once again? How will there be transparency about that decision-making process? Will there be published and clear criteria about the use of powers under the clause and what will the position be if the Minister—inadvertently of course—exceeds the powers under the clause? I would be grateful if the Minister could address those questions when he responds.

It is worth pointing out that, for all the advances in science and technology that have benefited billions of people across the globe, not every technological advance is a positive experience, and they can need more than just a technical tweak to legislation. For example, take the expansion of homeworking in recent years. The former Secretary of State, the right hon. Member for North East Somerset (Mr Rees-Mogg), did not see that as a great leap forward, despite the fact that technology enabled many more people to work far more flexibly. With those changes came important questions about how we deal with the increased monitoring of employees in their own homes. What is the Government's view on the limits of that? Where do questions of privacy and work-life balance fit in?

That is just one example of a seemingly innocuous development in technology having far-reaching societal impacts. The use of artificial intelligence in decision making is another. There have been a number of high-profile examples of AI having led to outcomes that have been classed as discriminatory. These questions are important. They are not just technical changes that require a bit of tweaking; they deserve greater scrutiny, not less. That is why is it so important that we understand the thresholds for ministerial involvement.

Another concerning pattern that appears to confirm that it was not just carelessness that allowed these powers into the Bill is the potential abuse—that the entire Bill will not be sunsetted. Under this clause, Ministers will have the power to make changes to retained and assimilated legislation indefinitely, in contrast to the powers available under rest of the Bill. Why the exception? If it is necessary to retain that power long term, is it not more appropriate for it to be subject to the tighter restrictions set out in clause 15?

The Minister for Climate (Graham Stuart): It is a pleasure to serve under your chairmanship, Sir Gary.

I thank the hon. Member for Argyll and Bute for tabling the amendment, but I urge the Committee to reject it. The power under clause 16 is intended as an updating power to make modifications to retained EU law that take account of a change in technology or developments in scientific understanding. The scope of that power has been deliberately restricted so that it can only be exercised to bring about such modifications.

It is critical that that power operates in that manner to ensure that legislation that sits on the UK's statute book is able to keep pace with scientific and technological developments, so that we continue to uphold our high standards as well as ensure laws remain tailored to best suit the UK's needs. Without that power, it would take a significant amount of parliamentary time for the Government to bring forward bespoke proposals and consider each amendment on a sector by sector basis.

I consider the requirement for Ministers to produce a written ministerial statement on the societal and economic changes relevant to the proposed changes under the clause to be neither relevant nor appropriate. The UK Government are committed to the appraisal of any regulatory changes relating to retained EU law, and the nature of that appraisal will depend on the types of changes that Departments make and the expected significance of their impact. We assess that current scrutiny procedure for legislation made under the clause is sufficient. Further scrutiny would be inappropriate for that type of power and would place additional pressure on parliamentary time. The power is circumscribed and, in answer to an earlier question, it is for Ministers to make those decisions. Further scrutiny could hinder the UK's ability to keep pace with new scientific and technological developments, and I am sure that no member of the Committee would want that.

Justin Madders: Will there be a standard threshold across Departments to trigger when Ministers may use the power? If so, can the Minister share it with us?

Graham Stuart: In so far as I understood the hon. Gentleman's question, the powers are circumscribed. They are designed to deliver the technical changes necessary and are certainly not meant to lead to substantive changes in policy. That would absolutely not be within the scope of the clause.

On that basis, I ask the hon. Member for Argyll and Bute to withdraw his amendment.

Brendan O'Hara: I thank the Minister for his response. I also thank the hon. Member for Ellesmere Port and Neston for his support. I still do not quite understand why the Government have been so deliberately restrictive in the scope of clause 16. In common with much of the Bill, the Government's complete refusal to accept any reasonable amendments is worrying. The amendment is not party political, but arose directly from a suggestion from the Law Society of Scotland. I will not pursue it to a vote, however, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 16 ordered to stand part of the Bill.

Clause 17

POWER TO REMOVE OR REDUCE BURDENS

Question proposed, That the clause stand part of the Bill.

Justin Madders: The clause relates to legislative reform orders under the Legislative and Regulatory Reform Act 2006. There are certainly positives associated with the mechanisms within which those orders operate.

The procedure for enacting draft Bills, in common with the terms of new clauses we have tabled, would include requirements for consultation, with further time for parliamentary consideration. When we are talking about between 2,400 and 3,800 laws, we think that is a reasonable proposal. That requirement would apply to instruments introduced under both the negative and the affirmative procedure, with the super-affirmative procedure further requiring 60 days for consideration, and a requirement on Ministers to have regard to recommendations to amend the draft order. Even if Ministers choose to press ahead with the unamended order, they must still lay a report before the House detailing the representations made and the proposed revisions. Although these measures do not go quite as far as our proposed new clauses, if they were used across the board for non-deregulatory purposes, they would be far more preferable to the use of the standard procedures currently in the Bill.

As Jack Williams pointed out in evidence a couple of weeks ago, the main concern is that using any of the mechanisms contained in the 2006 Act will put in place completely unrealistic time constraints, if they were used on all regulations and pieces of legislation on the EU dashboard. We have discussed at length why we think the 2023 sunset is unrealistic. Given that the time restrictions we face are well known, why does the clause remain in the Bill? Are there plans to use this power? Will the Minister provide us with some examples of where he thinks it might be appropriate to use this procedure or where it is already intended to be used? How will the problem of the clear six to eight months we will have once the Bill is passed to deal with all the regulations be dealt with?

The Government have promised to abide by all the stages of consultation and reporting in the Bill. It seems to me that it would therefore be a challenge to deal with this in the timeframe we have. Will the Minister tell us what criteria will be used when deciding to use this procedure? I presume some consideration was given as to when it might be appropriate to use it before it was inserted into the Bill. If Ministers choose not to use this power, there is nothing that we as parliamentarians can do about it. That is the nub of it.

Looking at 2016 Government guidance on legislative reform orders, it was noted that it can take some 10 to 14 months from the start of a consultation before a legislative reform order becomes law and reaches the statute book. I think we are all conscious of the fact that, even in the unlikely event that there is a smooth passage of this Bill through the Lords, it will be in force at the lower end of that timescale, if not far below it. I wonder if the Minister can tell us whether there is any intention to use the powers under the clause and, if so, in which circumstance they might be operative.

Graham Stuart: Clause 17 amends the LRRA 2006 explicitly to include any retained direct EU legislation in its definition of legislation. This amendment confirms that the delegated powers existing in the framework for legislative reform orders extend to retained direct EU legislation, and enable it to be amended within the current procedures and scope of the LRO process. There is no reason to exempt this category of legislation from the LRO process. It is a pretty innocuous technical change, and I commend the clause to the Committee.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clause 18

ABOLITION OF BUSINESS IMPACT TARGET

Question proposed, That the clause stand part of the Bill.

Alex Sobel (Leeds North West) (Lab/Co-op): I will be brief, as we have many clauses to get through. Clause 18 abolishes the business impact target in the annual report that the Conservative Government themselves introduced in 2015. Perhaps the Minister could explain the rationale behind the change. Have the Government finally caught up with the pointlessness of this exercise, which has piled unnecessary work and bureaucracy on civil servants over the past seven years? It would be helpful to hear the Minister's explanation for the change.

Peter Grant (Glenrothes) (SNP): My apologies for being late for the start of the sitting, Sir Gary.

About eight years ago, I bought myself a car. For a long time, the car did pretty much what I wanted it to do, but now it is showing its age and is not really behaving the way I would like, and I am wondering whether it is worth keeping. It would be foolhardy for me to get rid of my car when I have no idea what kind of car I want to replace it with, because I would leave myself open to the possibility either that I am without a car for a lot longer than I expected to be or that a replacement car is much more difficult and expensive to acquire. That is the position the Government want to put us in with this clause.

9.45 am

The sections of the Small Business, Enterprise and Employment Act 2015 that the Government want to repeal through the clause are not perfect—as the hon. Member for Leeds North West said, businesses complain that they are too bureaucratic—but they still achieve a purpose. As with most of the rest of the Bill, the Government are saying, "Clear out all that legislation now. At some time in the future, we will bring back something that is better, more effective and less bureaucratic."

If the Government are so convinced that they have something that works better, they should put it on the table as a replacement. What they have produced does not give us any confidence that they have any intention at all to replace even the good bits of the business impact target. I understand that the Cabinet Office and the Better Regulation Executive are currently working on the matter; why is it urgent to repeal sections of the 2015 Act now? Why are the Government not asking to repeal them and to replace them with something better? Is it because they have not yet thought of anything better?

Graham Stuart: Having left the EU, the UK has the regulatory freedom to ensure that all regulations are designed with UK interests front and centre. To seize the opportunities that come with this freedom, it is important that the Government's framework for scrutinising regulation—the better regulation framework—is reformed. As set out in "The benefits of Brexit", we are reforming the system to ensure that we regulate only where necessary. When regulation is needed, it should be designed and implemented in a way that minimises burdens on businesses and households, thereby driving competition, innovation and, ultimately, growth.

The abolition of the business impact target will support the delivery of the reforms by reducing what is currently a disproportionate focus on direct costs to business and allowing—I hope the whole Committee will agree—a more holistic appraisal of the impacts. By increasing the early scrutiny of the flow of new regulation and improving the existing stock of regulation undertaken through the use of powers elsewhere in the Bill, the new system will support the Government's growth ambitions.

Peter Grant: The Minister has great faith in the new system, but none of us can have any faith in it because we have not seen it. When can we expect to see the intended replacement for the relevant sections of the 2015 Act?

Graham Stuart: As I said, we expect the reforms to the better regulation framework to set a higher bar for the introduction of regulation and to help to reduce the flow. On the precise timing of when that will be, I will come back to the hon. Gentleman, unless I am suitably refreshed right now. As I say, this is a more proportionate approach, which I think the whole Committee will support. I therefore recommend that the clause stand part of the Bill.

Peter Grant: On the basis of the Minister's answer, I assure him that we will come back to him in due course and tell him when we are prepared to support clause 18, but we are not prepared to support it yet.

Question proposed, That the clause stand part of the Bill.

The Committee divided: Ayes 8, Noes 2.

Division No. 13]

AYES

Bacon, Gareth	Morrissey, Joy
Evans, Dr Luke	Nici, Lia
Fysh, Mr Marcus	Randall, Tom
Jones, rh Mr David	Stuart, rh Graham

NOES

Grant, Peter	O'Hara, Brendan

Question accordingly agreed to.

Clause 18 ordered to stand part of the Bill.

Clause 19

CONSEQUENTIAL PROVISION

Question proposed, That the clause stand part of the Bill.

Alex Sobel: We have already debated how the Bill grants Ministers sweeping powers; we now come to clause 19, which looks like it literally and explicitly allows Ministers to do anything they want. The Minister needs to explain what the Government think the powers are going to be used for, specifically in relation to EU regulations.

On the face of it, clause 19 would allow Ministers to make the case for anything at all, provided only that they consider it appropriate and in consequence of the Act. It is entirely left up to Ministers themselves to define "appropriate" and "in consequence". I would like the Minister to give the Committee further clarification of what "appropriate" and "in consequence" really mean—or perhaps he does not yet know.

It is noteworthy that the powers include modifications to any Act of Parliament—including this legislation. The powers are so sweeping that it is difficult to understand why the Government cannot better define the powers they are giving themselves in the clause.

Peter Grant: First, I have a concern similar to the hon. Gentleman's. It is the same concern that the SNP has expressed repeatedly throughout the progress of this Bill and many others. If the Bill does not just give any Minister the power to do whatever they like, will the Minister explain what clause 19 does not allow them to do? I always think it is interesting that when they give powers to Ministers, the Government put it into legislation that the Minister can do only what they consider appropriate. It is almost as if they do not trust their own Ministers not to do things that are considered completely inappropriate—although, having seen the actions of some Ministers over the past few years, I completely understand why they put that restriction in.

Secondly, is there a legal definition of what is actually meant by the words

"in consequence of this Act"?

If there is not, we could see regulations made under clause 19 being challenged in court, with the case hanging on whether the Minister's decision was in consequence of this Act. A phrase as woolly as that is going to be a field day for lawyers. It is going to end up with the Government, and potentially businesses, being tied up in exactly the kind of legal uncertainty that the Government claim they are trying to get rid of by the passing the Bill. Will the Minister clarify those two points, with particular regard to the legal interpretation?

Graham Stuart: Clause 19 establishes a power to make consequential provision. It is necessary to enable the UK Government to make appropriate provision in consequence of the Bill. That includes the ability to modify any enactment, including provisions in the Bill. The power in the clause is exercisable by a Minister of the Crown and can be used to make regulations by statutory instrument.

You might not know it from listening to the debate, Sir Gary, but the inclusion of such a power is standard practice for Bills in respect of which minor additional changes to legislation may be necessary as a consequence of the changes brought forward by the Bill. Consequential amendments to legislation may be necessary to ensure that the UK statute book continues to function effectively. It is therefore appropriate that the power be included in

[Graham Stuart]

the Bill to enable UK Government to deal with consequential amendments—and strictly consequential amendments.

The consequential power is subject to the negative procedure. If the power is used to amend primary legislation, it will be subject to the draft affirmative procedure to ensure the sufficient level of scrutiny. It is in fact entirely appropriate and proportionate.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20

REGULATIONS: GENERAL

Brendan O'Hara: I beg to move amendment 64, to clause 20, page 20, line 13, at end insert—

"(1A) A Minister of the Crown may not include in regulations under this Act any provision which is within the devolved competence of any devolved authority as defined in paragraph 2 of Schedule 2."

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

That schedule 2 be the Second schedule to the Bill.

Brendan O'Hara: The amendment was tabled in my name and that of my hon. Friend the Member for Glenrothes and takes us back to a recurring theme of this Bill Committee—namely, the incursion by the UK Government into areas that are, and have been since the establishment of the Scottish Parliament more than 20 years ago, wholly devolved.

I assure Members that before today is out they will have heard a great deal more about the power grab that is happening and how the Bill and its partner, the United Kingdom Internal Market Act 2020, are systematically undermining the devolution settlement and stripping powers from our Parliament. The amendment would simply protect the integrity of the devolution settlement by preventing a UK Minister from revoking any piece of retained EU law that currently sits within the competency of the Scottish Government, as defined in paragraph 2 of schedule 2.

The Union is hanging by a thread. The polls increasingly show a pro-independence majority, and among young voters in particular that majority is substantial and growing. We have heard lots of talk about the partnership of equals and how Scotland has an integral place in this so-called precious Union; those may be nice words and easy for politicians to say, but the problem is that fewer and fewer Scots believe it any longer. Not only have we been dragged out of the European Union in the face of an overwhelming desire to remain a member, but in the past weeks we have discovered that this is not a voluntary Union after all. We cannot decide our constitutional future without the permission of this place. Now, with this Bill, coupled with the insidious United Kingdom Internal Market Act, we have to sit and watch the powers of our Parliament being eroded and our democracy being dismantled.

I challenge the Government to prove me wrong and show the people of Scotland that this place is no threat to our Parliament and our democracy by accepting amendment 64 and allowing our Government to act according to the mandate given to them in 2007, 2011, 2016 and, again, in 2021. That mandate is to keep our regulations in lockstep with the European Union if that is what we choose to do.

Alex Sobel: I shall speak briefly to schedule 2. The need for the Government to act with devolved authorities when provisions are outside the devolution settlement makes a lot of sense. We are currently in a situation in Northern Ireland in which there is no Executive, the Assembly is not functioning and the Northern Ireland protocol, which is hugely affected by the Bill, is effectively broken. The schedule 2 powers will, in the end, as things stand—they do not look like they are going to change in the near future—be enacted by a UK Minister of the Crown rather than by the devolved authority, whether with or without a Minister. I note that that is made explicit. So we have a situation in which, although the Bill cannot have any impact on what happens regarding the Executive, there is a mismatch between what is happening de facto in Northern Ireland and de jure in the Bill. That creates a dichotomy, so will the Minister tell us how he thinks that will resolve itself, considering that a new Executive is nowhere in sight?

Peter Grant: Following the comments of my hon. Friend the Member for Argyll and Bute, the existence of schedule 2 specifically tells us everything we need to know about the nature of what is sometimes claimed to be democracy in this place. There is an explicit assumption in the schedule that Ministers in this place have the right to directly hold to account the democratically elected national Parliaments of the United Kingdom. That is not devolution; that is colonialism. It is not democracy; it is elected dictatorship. I appreciate that what is stated in schedule 2 is simply a restatement of the assumption that has run through this place for the past 300-plus years, yet it is a false assumption. It is an assumption that ultimate sovereignty by gift of God resides with an unelected individual who then passes down that sovereignty to a semi-elected Prime Minister.

Dr Luke Evans (Bosworth) (Con): If the SNP decides to join the EU, is that not exactly what would be being joined?

10 am

Peter Grant: I think the hon. Gentleman knows perfectly well that that is not the case. The European Union is about sharing and pooling sovereignty; there is no shared or pooled sovereignty within this Union. There is absolute sovereignty exerted, in effect, by one individual. One individual was able to end the careers of 40 Conservative MPs in 2019, just because they disagreed with him. That is how powerful one individual in this place can be. No individual in the European Union would have that authority against the will of national Parliaments and national Governments. My final response to the hon. Member is that he might think it is in Scotland's interests to leave the European Union but, with the greatest respect, it has nothing to do with him. It is—it should be—a choice for the people of Scotland—

The Chair: Actually, it is not much to do with this amendment, either. Please continue.

Peter Grant: It is also for the people of Scotland to decide what restrictions are put on the actions of their national Parliament and national Government, as it is for the people of Wales and of Northern Ireland. The inclusion of the schedule is another example of the rights of those three devolved nations being usurped by a state that claims to have the absolute right of sovereignty over them—but it does not have that absolute right, and, quite soon, it is going to discover, to its cost, that it never had that right.

Graham Stuart: I urge the Committee to reject the amendment tabled by the hon. Member for Argyll and Bute. It would prevent UK Ministers from making provisions within the competence of any devolved authority in respect of any of the powers in the Bill. As Members will be aware, the UK Government are committed to respecting the devolution settlements and the Sewel convention. The territorial extent of the Bill is UK-wide, and it should take effect UK-wide so that the benefits of Brexit can be seized across all four nations of the UK.

Conferring the powers concurrently ensures that the UK Government are able to legislate on behalf of a devolved Government who do not intend to take a different policy position. That will ensure that the most efficient and appropriate approach to the reform of retained EU law can be taken in every situation. Because of the nature of retained EU law, the edges of where UK Government competence ends and devolved competence begins are not always absolutely clear, so it is important that UK Ministers are able to make provision in areas of devolved competence to ensure that nothing important falls between the areas of reserved and devolved competence.

When using the powers in the Bill, we will use the appropriate mechanisms, such as common frameworks, to engage with devolved Governments, enable us to take account of the wider context and allow for joined-up decision making across the UK. The idea that we are riding roughshod over the devolution settlement is incorrect.

The hon. Member for Leeds North West mentioned Northern Ireland. The powers in the Bill are concurrent partly so that we can work with the Northern Ireland Executive—when there is one—to ensure that the Northern Ireland REUL required to operate the withdrawal agreement and the NIP is preserved.

I think I have answered most of the points that were made—I hope so, anyway—so I ask the hon. Member for Argyll and Bute to consider withdrawing his amendment.

Brendan O'Hara: Over the course of today, I will give the Government numerous opportunities to show that they respect the devolution settlement and that they are not intent on usurping powers from our Parliament. Given their past record, I had no expectation that they would accept amendment 64, but I never wanted it to be said, in future, that they did not understand what they were doing, or that it was somehow accidental. The Minister said that it is not clear what is devolved and what is reserved. It is absolutely clear: it is in the Scotland Act 1998, which says clearly that if it is not reserved, it is devolved. We will vote against schedule 2, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 20 ordered to stand part of the Bill.

Question put, That the schedule be the Second schedule to the Bill.

The Committee divided: Ayes 9, Noes 2.

Division No. 14]

AYES

Bacon, Gareth	Morrissey, Joy
Bhatti, Saqib	Nici, Lia
Evans, Dr Luke	Randall, Tom
Fysh, Mr Marcus	Stuart, rh Graham
Jones, rh Mr David	

NOES

Grant, Peter	O'Hara, Brendan

Question accordingly agreed to.

Schedule 2 agreed to.

Schedule 3

REGULATIONS: PROCEDURE

Graham Stuart: I beg to move amendment 1, in schedule 3, page 30, line 5, leave out paragraph 2 and insert—

"2 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made.

(2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is not subject to the procedure mentioned in sub-paragraph (1) (whether or not it is subject to any other procedure before Parliament).

(3) Where regulations are included as mentioned in sub-paragraph (2), the statutory instrument is subject to the procedure mentioned in sub-paragraph (1) (and is not subject to any other procedure before Parliament).

(4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Senedd Cymru as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament, but as if references to Parliament were references to the Senedd.

(5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if references to Parliament were references to the Northern Ireland Assembly.

(6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before a devolved legislature as well as a procedure before Parliament as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament, but as if references to Parliament were references to Parliament and the devolved legislature.

(7) In sub-paragraph (6) 'devolved legislature' means the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.

(8) Nothing in this paragraph prevents the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act."

This amendment enables regulations under this Act subject to the draft affirmative procedure to be combined with regulations that are not subject to that procedure.

[Graham Stuart]

This is a technical amendment necessary to ensure that the mechanism for combining statutory instruments in the Bill functions correctly. The intent behind the Bill is to enable regulations made under different powers in the Bill to be combined into a single statutory instrument where it would be more appropriate to do so. This technical amendment will allow provisions made under any powers in the Bill and other enactments to be combined with regulations under the Bill that require a draft affirmative instrument.

Where such provisions are combined, the default procedure will be the higher procedure, which is the draft affirmative. That will enable statutory instruments to be combined more effectively, which will save resource and reduce the future burden on parliamentary business. The amendment also makes equivalent provision for the devolved legislatures. I commend the amendment to the Committee.

Justin Madders: I am grateful to the Minister for providing an explanation of the technical nature of the amendment. It actually quite an important amendment for the Government if they are to have any chance of meeting their self-imposed deadline in a year's time. Being able to link together different instruments that require different procedures will, as the Minister said, be a helpful tool to limit the amount of parliamentary time taken up, although that may come at the cost of scrutiny. I am, however, encouraged by the Minister's confirmation that the affirmative procedure will be used in those circumstances. It is almost as if there will be levelling up of regulations so that the higher standard of scrutiny will apply.

Will the Minister tell us whether there has been any assessment of on how many occasions it is anticipated that the amendment will be used? It is worth saying, once again, that if the Government had not created this artificial cliff edge and put themselves up against the clock so steadfastly, the amendment would not be necessary.

Peter Grant: I will not oppose the amendment, but I need to put on record that the fact that such a detailed technical amendment is needed is clear evidence that the people who draft legislation do not always get it right first time. Is it not lucky that we have a Bill Committee, so that errors, omissions and oversights in the drafting of the Bill can be put right before it comes into force? The 4,000 or so—at the latest estimate—bits of legislation that the Bill will tear up and throw in the fire will be replaced by things that we will not get a second chance to put right in Bill Committee.

When, as will almost certainly be the case, the Government end up repealing bits of legislation that nobody knew existed, we will not have a Bill Committee to put things on hold in order to correct any mistakes. The fact that the Government have already had to table this and so many other amendments and we have no idea what else they will have to introduce on Report or in the House of Lords does not represent a criticism of those who drafted the legislation. It is simply an illustration of an uncomfortable fact: no matter how good we are at drafting legislation, we do not get it right first time. If this Bill passes in the form in which the Government are determined to pass it, there are potential catastrophic impacts from Parliament repealing legislation that it did not even know existed.

Graham Stuart: I am glad that there is, I think, acceptance that this amendment is a practical and sensible measure. By bringing procedures together in one and having the affirmative procedure, we can ensure that Parliament can scrutinise in a more holistic manner, to address some of the concerns that have been raised by the Scottish nationalist spokesman. As to precisely how often, I do not have an estimate on that, but I expect it to be on numerous occasions, because, as has been said, there is a substantial amount of retained EU law. If that can be brought together and scrutinised in an effective manner that allows full and proper scrutiny but does so in a way that does not waste parliamentary time, I hope we will have something that works for all parts of the House and is seen as practical and proportionate.

Amendment 1 agreed to.

Alex Sobel: I beg to move amendment 88, in schedule 3, page 31, line 6, leave out from "15" to the end of line 8 and insert—

"(d) regulations under section 16."

This amendment, together with Amendment 89, would make all regulations under Clause 15 (regulations that are intended to achieve the same or similar objectives as the REUL being replaced) and under section 16 (technological developments) subject to affirmative procedure.

The Chair: With this it will be convenient to discuss amendment 89, in schedule 3, page 31, line 17, leave out paragraph (c).

See explanatory statement to Amendment 88.

Alex Sobel: We have already spoken at length about the lack of effective parliamentary scrutiny provided for in the Bill. Our amendments 88 and 89 would ensure that any instruments made by Ministers to replace retained EU law under clause 15 or to update it under clause 16 were subject to the affirmative procedure and had to be approved by both Houses. At present, schedule 3 does not provide for the affirmative procedure for clause 16 instruments at all; for clause 15, it provides for the affirmative procedure to apply only in the case of revocation or for much more limited cases where the clause 15 powers are used for sub-delegation or to create a new criminal offence.

It seems to us, as well as to many of those who have submitted written evidence, that the powers in both clauses are potentially extremely significant even if they are not being used for wholesale revocation. Updating and replacing retained EU law might well involve alterations to existing and long-established rights and protections—alterations that we feel Parliament should be asked to positively agree to before they pass into law. The Minister himself just said that this Bill covers a substantial number of regulations, so it is only right and proper that we have the correct level of scrutiny and process in this place.

Can the Minister explain the circumstances in which he envisages the powers to replace and update being used? Can he also provide examples of the replacement or updated legislation that Departments are planning to take through, using these powers? I ask because we have heard very little, but we know that civil servants are busy preparing regulations for this procedure.

Stella Creasy (Walthamstow) (Lab/Co-op): Good morning, Sir Gary. It is a pleasure to serve under your chairmanship this morning on this Bill. You have missed some real treats, I venture to suggest, about the future of decision making in this place.

Members who have been on this Committee for the whole marathon rather than the last couple of miles will know that Opposition Members have been raising consistent concerns about how we do what we were all promised we would be able to do—take back control. The amendments before us this morning are about exactly that, because one of the central concerns that we have about this legislation is that it does not take back control to the British people; it simply takes back control to the back rooms of Downing Street and Departments. These provisions, these amendments, show why that concern is merited.

All of us have sat through statutory instrument Committees in our time in Parliament. It is a joy to receive the message, at the last minute, that you have been selected, Sir Gary, for what pleasures—what delights—await you and what information you will learn on one of those Committees. But they are a vital part of our parliamentary scrutiny process. After all, they offer the opportunity for Ministers to set out clearly the purpose behind any amendments; the recognition that not everything needs to be debated on the Floor of the House; and clarity about the Government's thinking. Many of us who have sat through court cases will recognise how important that is when it comes to the application of the law.

As we have discussed previously in Committee, this legislation will delete overnight potentially 4,000 laws. It could be more, or it could be slightly less—who knows? We probably should know before we pass the Bill. We have had that debate and the Government still do not think it is important, but they have always told us that they wanted to take away unaccountable European bureaucrats and give us the opportunity to have British bureaucrats making legislation. The amendment challenges that process. It would give back to us, as parliamentarians, the responsibility for holding the Government to account.

10.15 am

Committees considering statutory instruments offer the opportunity to ask Ministers questions. I see the Minister in his place, and he and I have been on statutory instrument Committees through the years. I know I have always enjoyed hearing his answers, even if he has not always enjoyed my questions. By clarifying that this process must be used on statutory instruments, we would set an important principle that perhaps would take us closer to taking back control.

As has been pointed out by my Front-Bench colleague, my hon. Friend the Member for Leeds North West, clause 15 allows that only in the case of revocation. We have already heard in Committee the Government's plans simply to let some legislation drop, but why have that power only in respect of revocation when the Government might want to admit publicly that they are going to abandon a key piece of legislation? Who knows what that legislation might be? Might it be the working time directive? Might it be bank holidays? Might it be maternity rights? Might it be environmental protections? Who knows?

Graham Stuart: No, no, no, no.

Stella Creasy: Perhaps, then, the Minister will publish and confirm for all of us who have been on the Committee—he is new to these debates, but I am afraid he is going to hear this concern repeated at length—what comes next. Without clarity over what comes next, it is difficult to be confident that the legislation will not be a destructive disaster. I see he is already enjoying the fact that he is on duty today.

Having this power only for revocation undermines other powers the Bill gives to Ministers, because it is a power both to ignore and to amend legislation. Taking back control and returning it to the back rooms to allow Ministers to write legislation and then simply put it before us in a "like it or lump it" proposal is not really taking back control.

I also venture to say that it is worth ensuring that we have this procedure for all forms of legislation that are affected by the Bill—not for some grand political design so we can have these wonderful debates, but because, as we have already seen with this Bill, not everything is going to be perfect. Departments make mistakes. Drafting can contain errors. I am reminded of the tale, which is completely true, of the Belgian legislature that managed to put a recipe for asparagus into Belgian law because it was cut and pasted into legislation by accident. That genuinely happened—I am sure the Minister will google it—in 2021.

Statutory instruments give us an opportunity to pick up drafting errors, as well as to hold Ministers to account, and to challenge and query legislation—for example, one of those so-called technical amendments, although we know the Bill represents not technical amendments, but, potentially, serious changes to rights, rules and regulations that people have relied on and recognised for generations. Having such a procedure would give us the chance to identify actions, and possibly to identify the asparagus.

If the Minister will not accept the amendment, he is saying two things: first, that taking back control is not about Parliament, but simply about the back rooms, and, secondly, that we never get things wrong. We have all met in life individuals, and perhaps even organisations, who say, "I never get things wrong," and we know that that is the most worrying thing that anybody can say. Drafting errors are part and parcel of trying to get right even one or two pieces of legislation, but the Government, potentially, are setting us up to try to get 4,000 right to replace the laws they are deleting overnight.

Statutory instruments and the use of processes and amendments are an important part of the process of trying to ensure that that is done with the greatest possible skill. Removing those powers, or not clarifying that they are part of those processes, and giving Ministers the opportunity to decide whether they want to put themselves up for parliamentary scrutiny is like letting contestants in "The X Factor" avoid the judges' houses stage. This all forms an important part of the process.

I have a horrible feeling that the Minister is not going accept the amendment, so in responding to the queries and questions we have raised, and in reflecting on why the amendment has been tabled, will he consider why—when we are discussing potentially significant and meaningful changes, and when we know he can only water down regulation because the Bill says that regulation can only be something that does not create a burden—he believes our constituents should be denied that

[Stella Creasy]

representation and that voice in the process? That is what not including such a provision, or not having any form of it, means.

We saw that in the pandemic, when statutory instruments were not receiving appropriate scrutiny. In December 2020, a new set of covid restrictions that would have criminalised a child going to school in tier 4, despite schools remaining open, were implemented without any parliamentary scrutiny. In that case, due to the extraordinary public scrutiny these regulations faced, the issue was finally identified before the schools returned from the Christmas break for one day. Despite what they might think, however, it is not normal for commentators on Twitter to go through legislation at this level. Such errors are not minor—they are not just asparagus—but could have real life implications. They happen and they happen in this place, and not having proper scrutiny of SIs is the foundation of such errors.

I hope the Minister will do more than laugh at the asparagus. I hope he will act on these concerns and finally agree, if not to this amendment, to the tabling of the Government's own amendment in the other place to ensure we finally take back some control. I say to my colleagues on the Government Back Benches that at some point, somebody will turn up in their constituency surgeries asking about the outcome and implication of this legislation, and they will have to say, "Well, I didn't vote through any changes. I did not recognise the problems with the sunset. I was pretty confident about not knowing what laws this would affect and I did not even vote through any powers to be able to scrutinise what happens next. I just thought it would all be fine because this Government never make mistakes." It simply will not wash.

Graham Stuart: I urge the Committee to reject amendments 88 and 89. Alongside the other powers in the Bill, the power to revoke or replace in clause 15 is an important, cross-cutting enabler of reform in the Bill. The power to update in clause 16 is an essential, ongoing power that will facilitate technical updates to retained EU law to take account of changes in technology or developments in scientific understanding. We recognise Parliament's important role in scrutinising legislation, and the Bill ensures the appropriate scrutiny of all amendments and revocations of retained EU law using the powers in the Bill, including the powers provided for in clauses 15 and 16.

When discussing matters of scrutiny, I feel it is important to note the negligible scrutiny that most of the legislation we are discussing today—with such high-falutin' language from the Opposition—received when it was created. When our democratically elected Government of the people of the United Kingdom take decisions, for which they are accountable at the ballot box, that is what I mean by taking back control. The people who are elected are responsible for what happens. That is what we have, and we are accountable at the ballot box. When they go to the ballot box now, British people will know who to hold responsible: us. It is not some pooled whatever system in Brussels; it is here in the United Kingdom. Power sits within this legislature, which is elected by the people of this country; it is not about precisely where the powers sit within our legislature. That is why it seems ironic that the Opposition parties had so little concern when powers were exercised on the other side of the channel, but apparently it is outrageous when those powers are exercised here by a democratically elected Government.

Several hon. Members *rose—*

The Chair: Will the Minister give way?

Graham Stuart: I am not going to give way. If I was, I would certainly let them know, Sir Gary. [Hon. Members: "Lack of scrutiny!"] More important than issues around lack of scrutiny is the Minister's failure to keep everyone calm. I recognise that is a significant misstep on my part.

Let me first turn to clause 15. Any regulations made under subsection 15(2) that recreate a power to make subordinate legislation or a criminal offence present in the retained EU law that is being replaced are already subject to the affirmative procedure, as are those regulations making alternative provision to the REUL being replaced under subsection 15(3). The power to update has been crafted so that we can do this in the right way. I must underscore this by saying that the power is intended to enable UK legislation to be updated to reflect future advances in science and technology, rather than to provide for any fundamental policy changes.

Given the scope of the power and the amendments that we expect to be made to regulations under this power, we judge the negative procedure to be the proportionate level of scrutiny. We therefore do not assess that it is necessary or appropriate for all regulations made under clauses 15 or 16 to be subject to the draft affirmative procedure. To do so would place additional pressure on parliamentary time and detract from the legislative agenda, and indeed from the scrutiny of substantive measures that should be subject to that positive scrutiny that we are talking about. I therefore ask the hon. Gentleman to withdraw the amendments.

The Chair: Before I call Alex Sobel, I call Peter Grant.

Peter Grant: Thank you, Sir Gary, for calling me to speak. You will be aware that I attempted to intervene on the Minister to correct his mistake, because we are not in the same position with this Bill as we were with European legislation. The reason that Parliament did not do more to scrutinise the action of British Government Ministers in making legislation on our behalf while we were in the European Union is that, for most of the time, Parliament under any Government was completely supine. This Parliament is set up in such a way that it does what the Government tell it to do. It is headline news around the world if Parliament does not do what the Government tell it to do. Parliament had the power to rein in Ministers, but shamefully it repeatedly failed to do so. If this Bill goes through, Parliament will not have that power; Ministers will be able to do pretty much what they like.

The Minister talks very grandly about the fact that people have the chance to hold the Government to account. It is not a debate for just now perhaps, although some of us think that it is a debate for every day of the week, but the people of Scotland have been holding this Conservative party to account since 1955 and they just cannot get rid of them. He will perhaps understand why we can have no confidence in a legislative process that

puts powers into the hands of a group of Ministers who people in Scotland have rejected at every opportunity they have been given since before I was born.

Alex Sobel: I want to just pick up on the idea that before 2016, or before early 2020 anyway, the regulations that we are talking about were somehow just created out of thin air—that an EU Commissioner decided one day that that was the regulation and that was it, and suddenly it was law in this country. That is a long way from the truth. The regulations had to go through the Council of Ministers, on which a UK Minister sat; they had to go through the European Parliament, where UK MEPs sat and provided scrutiny; and then they had to go through this House and the whole process here in the UK Parliament. When they related to devolved bodies, they also had to go through the devolved Administrations. I do not understand the argument that somehow there was a lack of scrutiny and process before, and now there is proper scrutiny and proper process. What our amendments would do is introduce the affirmative procedure.

Stella Creasy: Does my hon. Friend agree that there is a heavy irony in a Minister who refuses to take interventions and to be held accountable for what he says suggesting that nobody should be worried about the details of parliamentary scrutiny, who then cloaks himself in an argument that somehow the scrutiny mechanisms within the European Union were not acceptable?

Alex Sobel: That is a theme running through the whole Bill. First, Ministers want to take powers for themselves—for the Executive—and away from Parliament. I understand that the Executive in this country is elected, at least in part—that is, down at this end of the building. Secondly, even in the microcosm of this Bill Committee, this is the third part of the Bill on which Ministers have refused to take interventions from the Opposition. They are not prepared to allow relevant scrutiny, which creates an even stronger argument as to why we need protections.

Justin Madders: Does my hon. Friend agree that although we hear an awful lot about how terrible the processes were and about these laws being imposed on us, as we discussed at length, we never hear which specific laws the Government object to?

Alex Sobel: As we do not know, there might be more than 4,000 of these regulations. We would all like lists of the various different types of regulations; I would certainly like to see which of the regulations did not receive adequate democratic process and scrutiny.

In conclusion, all of the arguments that we have heard make it even more important that the Committee accepts these two amendments.

10.30 am

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 15]

AYES

Blomfield, Paul	Madders, Justin
Creasy, Stella	O'Hara, Brendan
Glindon, Mary	Sobel, Alex
Grant, Peter	

NOES

Bacon, Gareth	Morrissey, Joy
Bhatti, Saqib	Nici, Lia
Evans, Dr Luke	Randall, Tom
Fysh, Mr Marcus	Stuart, rh Graham
Jones, rh Mr David	

Question accordingly negatived.

Brendan O'Hara: I beg to move amendment 69, in schedule 3, page 33, line 10, at end insert—

"Consent of Scottish Ministers

8A Before making regulations to which this Part of this Schedule applies, a Minister of the Crown must obtain the consent of the Scottish Ministers."

This amendment modifies the powers which are conferred on Ministers of the Crown in devolved areas so that they may only be exercised with the consent of the Scottish Ministers.

Amendment 69, tabled in my name and that of my hon. Friend the Member for Glenrothes, simply adds a line to the end of schedule 3 that, in layman's terms, would prevent the UK Government from acting in areas of devolved competence without the consent of the relevant Scottish Government Minister or Ministers. In previous sessions, we have discussed how the UK Government plan to avoid parliamentary scrutiny by packing Delegated Legislation Committees of this House, and using secondary legislation to dispose of thousands of pieces of retained EU law.

The Minister has heard that we on these Benches are deeply concerned about the lack of parliamentary scrutiny. Although we who work in this Parliament might be concerned, it is completely unacceptable that the Governments and parliamentarians across these islands will be excluded from those Committees and will have to sit and watch us. My hon. Friend the Member for Glenrothes pointed out that they will have to watch as members of a party that has not won an election in Scotland since 1955 push through change after change to legislation in areas that have been—and are—wholly devolved, and which the people of Scotland and its democratically elected Government do not want changed.

It is yet another example of things being done to us, against our wishes, by a Government who we did not elect. I say to the UK Government that amendment 69 is another opportunity to show the people of Scotland that you value their opinion, you respect their Parliament and Government, and you wish to respect the devolution settlement. I urge you to accept this amendment. If you do, then maybe you will go some way to letting the people of Scotland know that you are not coming for our Parliament or our powers.

The Chair: Just a reminder that "you" is me. Does the hon. Gentleman mean the Minister, because I love the people of Scotland?

Brendan O'Hara: Absolutely, Sir Gary. I have no idea what you wish to do after you leave this place, but I am certain it is not that. If the Minster accepts the amendment, that would maybe go some way to showing that his Government are not coming after our powers or our Parliament.

Graham Stuart: I urge the members of the Committee to reject the amendment. As they are aware, the Bill contains a sunset date of 31 December 2023, by which all retained EU law will be removed or reformed. That

[Graham Stuart]

date was chosen to create the impetus for REUL reform and enact change at the earliest opportunity. The Bill has been drafted to ensure that the sunset date is workable, but it is pivotal that there are no impediments or delays in that process. A delay of a month or more to seek consent would make it more difficult for the necessary regulations to be laid before that date. That risks the inadvertent sunsetting of laws that Departments have identified they wish to keep.

Peter Grant: The Minister appears to be admitting that the ideological, arbitrary and unnecessary deadline of the end of next year is more important than the basic processes of democracy and of courtesy towards the devolution settlement. Is that correct? Is that what he is saying?

Graham Stuart: I congratulate the hon. Gentleman and his colleague, the hon. Member for Argyll and Bute, on the mental and political gymnastics through which they put themselves in order to make out that perfectly reasonable, fair, proportionate and devolution-friendly legislation is somehow an affront to the Scottish people and devolution. It takes a particular turn of mind and will to twist everything into a grievance, even when that is not borne out as a reasonable outcome.

The UK Government take into account a variety of factors when seeking delegated powers in devolved areas. Each Bill is drafted according to its specific policy intent and the most appropriate way to effect those policy changes. The powers for the UK Government to make statutory instruments in devolved areas are not new, and have been used across a wide range of policy areas since the advent of devolution. That is because it is often appropriate for the UK Government to amend existing, or introduce new UK-wide regulations, including in devolved areas. That approach is more efficient and ensures greater coherence across the UK, as well as making it easier for our stakeholders.

Furthermore, the amendment would impose on UK Ministers a consent requirement from Scottish Ministers for provisions in areas of devolved competence. As I said, the boundaries are not always clearcut and could give rise to litigation, which might result in regulations being struck down by the courts.

The Bill is not intended to take powers from the devolved Governments and nothing in our proposed legislation affects the devolution settlements. In fact, the powers under the Bill will give the devolved Governments greater flexibility to decide how they will regulate those areas governed by retained EU law in the future. That will enable the Scottish Government to make active decisions about retained EU law within their devolved competence for the benefit of citizens and businesses in Scotland. What a shame that we did not hear any of that reflected in the contribution of the SNP spokesman, the hon. Member for Argyll and Bute.

The Government remain committed to continuing discussions with the devolved Governments throughout the passage of the Bill to ensure that the most efficient and appropriate approach to REUL reform can be taken in every situation in a way that works and provides certainty for all parts of the UK. As I said and do not apologise for repeating, the Scottish Government will be able to make active decisions about retained EU law within their competence. They need to get on with that and not have their representatives in this Parliament making out inaccurately that the Bill makes impositions on Scotland that it does not.

Brendan O'Hara: It is nice to see the Minister revert to type. Having been regaled for the past two or three days by someone with a slightly more considered approach, it is nice to see that the Government's gloves have finally come off. We are getting down to the nitty-gritty of the Bill.

Let us be absolutely clear: this Bill is a full-on attack on the devolution settlement. Coupled with the United Kingdom Internal Market Act 2020, this is an attack on our Parliament and our power. The idea that the Bill is "devolution-friendly" is literally laughable, as he heard from the reaction to it of me and my hon. Friend the Member for Glenrothes.

To be clear, that date of 31 December was chosen without consent. No one asked the Scottish Government or the Scottish Parliament if they agreed to that date. The date is ideological, arbitrary and a cliff edge 13 months from now, and it is almost certain to fail. It is an impossible target to achieve, and it will not be achieved. I say to the Minister again: we are giving him and his Government the opportunity to show that they respect the devolved settlement and Administrations. The amendment gives them the opportunity to say once and for all: "We respect you, listen to you and value your contribution."

Despite all the Minister has said, I urge him yet again to accept the amendment. If he does not, however, I will not press it to a vote.

Peter Grant: It is not only in their debate style that we have seen a complete contrast between the Minister and his colleague the Minister for Industry and Investment Security, who was in Committee last week. We should remember what the Minister's colleague said last week about the need for the 31 December deadline and how achievable it was. When we raised concerns that bits of legislation will be repealed by mistake, that was scaremongering. When we raised concerns that if the Government force through 90,000 job cuts in the civil service, civil servants who are already overworked will be put under impossible pressure, that was scaremongering as well. When we warned that the pressure would lead to more mistakes being made than would be acceptable or sustainable, that was scaremongering because the civil servants would get it right first time in just over a year. Now we are being told that a delay of a month in a small minority of some of these 4,000 bits of legislation would be so catastrophic that it cannot even be allowed in the name of simple democracy or simple courtesy.

If the Minister is concerned that a month's delay is too long and if the Government are really on top of the problem, as they keep telling us they are, they could send a message to the devolved Governments today to say: "These are the parts of retained EU law that we think have got a direct impact on your devolved powers. We only need to give you a month to decide whether or not to give consent. But because the Government are in control and we know what we are doing, we can give you six months. If you come back in six months and tell

us whether you consent, we still have three months to negotiate any differences and then a full three months to put the legislation in place." That is how the Government would manage the situation if, first, they really were in control and knew what they were doing, of which we have seen very little evidence so far, and secondly, if they really believed in and respected the spirit of devolution.

The spirit of devolution is that there will be different answers in the four different nations of the United Kingdom because there are different needs, different priorities and, as we see, more and more different expressions of political will. On that point, the Minister keeps referring to the suggestion that Government Members understand and respect the will of the people of Scotland. We are prepared to put that to the test at any date of the Government's choosing. The Government are running away from the will of the people of Scotland.

Brendan O'Hara: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Just a gentle reminder that we are sometimes in danger of making Second Reading speeches on some of the amendments. We all know the rules, so let us keep our focus on the amendment in hand.

Question proposed, That the schedule be the Third schedule to the Bill.

Justin Madders: It is worth spending a little time on schedule 3 because it is the engine underneath the dashboard of the vehicle that will drive us off the cliff edge at the end of next year. It gives the Government the ability to use regulations to carry out the heavy lifting required by the Bill. As we have discussed many times already, we know the potential ramifications of that for the huge range of protections that our constituents currently enjoy and for the lack of parliamentary oversight that there will be in that process.

We have said all this before, but the broad changes that will be carried out under the regulations will mainly fall under the negative procedure. Offering only the affirmative procedure to a small proportion of the changes envisaged by the Bill falls far below the standard of scrutiny that we would expect. When one considers the sheer number of regulations required to make the changes, which we have talked about, and of course the risk that laws will fall by default because the relevant Department has not identified them, the concerns over lack of scrutiny multiply.

Stella Creasy: Does my hon. Friend agree that what is so critical is that we depend on Ministers knowing what is affected and what is not? I am struck by the fact that the Minister tried to tell us on Second Reading that airline safety rules would not be included and therefore we did not need to worry about the regulations. In fact, subsequent written parliamentary questions have confirmed that the SIs around airline safety were part of the Bill and therefore not contained in the Civil Aviation Act. Does my hon. Friend agree with me that making sure the engine underneath is roadworthy is perhaps one of the most critical things we can do in Committee, given that Ministers themselves perhaps should not be at the wheel?

Justin Madders: I think I have got rather lost in the number of analogies there; I might want to pull over and take a breather. The point is that we just do not know the full extent of the Bill. If we do not know, and if the Ministers and civil servants do not know, we cannot be confident that there will be no unintended consequences, which is why the level of scrutiny that the Bill affords is inadequate.

The wider problem is the way the Bill is framed. It seeks to provide the wrong answer to, essentially, the right question—"What do we do about all the retained EU law?"—but I am afraid that the answer we have come up with is wholly inappropriate. It does not uphold principles of scrutiny or parliamentary supremacy; actually, it makes Parliament a bystander in large parts of the process.

10.45 am

I refer to the words of the former Secretary of State, the right hon. Member for North East Somerset. When he was Leader of the House, he said that the frequent use of skeleton Bills, which is what the Bill is, did not

"necessarily provide a model example of how Parliament would like to see legislation brought forward",

and that he would be

"encouraging them to minimise the use of delegated powers where possible".

I wish he had taken his own advice. In its written evidence, the Bar Council said:

"It is a matter of great public interest that, where it applies, REUL should be as certain as possible. It is also important as a matter of democratic principle—as well as ensuring that replacement legislation in areas of great importance to business and the wider public is effective in achieving its goals—that replacement legislation be carefully considered and properly scrutinised before it is enacted."

And in its written evidence, the Civil Society Alliance said the Bill

"gives staggeringly broad delegated powers",

as we see under this schedule,

"to repeal and replace parliamentary laws with policy that is subject to little or no democratic scrutiny, introduced at an alarming pace."

We have already made our position clear. We do not believe that Parliament's role should be reduced. No doubt Government Members will tell us that that is our way of stopping Brexit. Of course it is not because we have already left the EU—that is a fact. Our position is about how we determine Parliament's role in shaping the future of this country. One of the reasons people campaigned so enthusiastically to leave was so Parliament—this House—could take back control of its decision making, and that is all we are seeking to uphold with our amendments.

I know Government Members will not be moved by any of my words, given the way votes have gone so far, but will the Minister offer some clarity on a couple of points about the schedule? There is a degree of uncertainty about how Parliament's sifting procedure will operate. Will the Minister confirm whether the process that will be undertaken will be similar to that used during the enactment of the European Union (Withdrawal) Act 2018? That has some important consequences for the Bill.

The Hansard Society's evidence contained some interesting comments about the decisions to be made about which Committee is appropriate to undertake the

sifting work. It identified two likely options: the European Scrutiny Committee and the European Statutory Instruments Committee.

Were the European Scrutiny Committee to be chosen, it expressed "considerable concern" that that Committee had not operated such a function previously, given that its role is solely focused on EU documents and it has never sifted UK regulations before, so that would be a departure from its current role.

The European Statutory Instruments Committee sifted regulations under the withdrawal Act, but it has traditionally been used to scrutinise deficiencies that are subject to the negative scrutiny procedure. Therefore, it has largely focused on what we might consider dry, technical matters, although perhaps lawyers might be excited by them.

Powers contained in the Bill mean that, under the proposed regulations, the sifting will deal with far more sensitive and politically salient areas of policy, not just dry, technical matters. The process is not about amending a small number of instruments under the negative procedure, but about amending or replacing whole areas of legislation that touch on every part of our lives and determine important protections. Does the Minister consider either of those Committees appropriate to deal with the significant sifting process proposed by the Bill?

The answer is not about which Committee deals with that, but about putting far greater levels of scrutiny into the Bill in the first place. I remind the Committee about some of Minister's comments from last week. She said she did not want to see changes to the Bill because

"That would disempower Departments, hindering their ability to pursue the REUL reform that they judged to be necessary."—[*Official Report, Retained EU Law (Revocation and Reform) Public Bill Committee,* 24 November 2022; c. 236.]

That takes us back to the central point: we are not here to empower Departments. We are here to empower Parliament, to empower the people we represent, and to provide the correct level of scrutiny and challenge that any Government ought to welcome in a democracy. The Minister said this morning that the Bill was designed to provide impetus for the changes that we need. We are not here to provide impetus to Departments that might not be moving as quickly as Ministers would like. We are here to scrutinise and challenge the Government on their decisions. I am afraid that this Bill, whatever way we consider it, makes that challenge harder, which is why we are concerned about the schedule, and the whole Bill.

Graham Stuart: Schedule 3 specifies how the powers in the Bill will be exercised through regulations made by statutory instrument or the relevant equivalent in the devolved Administrations. The schedule sets out the parliamentary procedure applicable to specific powers in the Bill, including in cases where instruments contain combined provisions using a number of powers. It provides for equivalent procedures to apply in the devolved legislatures and for joint procedures to be available when Ministers of the Crown are making regulations jointly with devolved authorities.

The hon. Gentleman asked about the sifting procedure. The sifting procedure will apply to legislation made under clause 12, the power to restate retained EU law; clause 13, the power to restate assimilated law or sunsetted EU rights, powers, liabilities and so on; and clause 15, powers to revoke or replace, where Ministers decide to use the negative procedure. The sifting procedure largely corresponds with the sifting procedure under the European Union (Withdrawal) Act 2018 and under the European Union (Future Relationship) Act 2020. In both cases, sifting was effectively used to ensure proportionate parliamentary scrutiny on legislation regarding EU exit.

Under the procedure, recommendations on the appropriate procedure from both Committees, in the House of Lords and House of Commons, must be received before the instrument can be made. If either Committee recommends that the instrument should be subject to the draft affirmative procedure, the Minister must either follow that recommendation or publish a written statement explaining why they disagree with the Committee's recommendations. If no recommendations have been received from the Committees after 10 days, the legislation can be made under the proposed procedure.

The sifting procedure will provide additional scrutiny of the powers while retaining the flexibility of using the negative procedure when and only when there are good reasons for doing so. The Government recognises the significant role Parliament has played in scrutinising instruments subject to these sifting procedures and are committed to ensuring the appropriate scrutiny of any secondary legislation made under the delegated powers in the Bill.

Question put and agreed to.

Schedule 3, as amended, accordingly agreed to.

Clause 21 ordered to stand part of the Bill.

Clause 22

Commencement, Transitional and savings

Brendan O'Hara: I beg to move amendment 66, in clause 22, page 21, line 39, at end insert—

"(aa) section [Impact assessments];".

The Chair: With this it will be convenient to discuss new clause 3—*Impact assessments*—

"The Secretary of State must publish an assessment of the impact of the

(a) revocation of any—

(i) EU-derived subordinate legislation, or

(ii) retained direct EU legislation, or

(b) removal under section 3 of any rights, powers, liabilities, obligations, restrictions, remedies or procedures saved by virtue of section 4 of the European Union (Withdrawal) Act 2018 at least three months before the revocation or (as the case may be) removal takes effect."

Brendan O'Hara: I will be mercifully brief. The amendment stands in my name and that of my hon. Friend the Member for Glenrothes. The amendment and new clause 3 would oblige the UK Government to provide an impact assessment on what they believe the likely consequences would be of any withdrawal of a piece of legislation before any revocation of the EU law takes place. That impact assessment should be published three months ahead of any scheduled revocation date.

The Government may see that requirement as a tad onerous, but it simply reflects the gravity of what the Government are planning with retained EU law. It would ensure that, rather than having the planned bonfire

of legislation, the Government and their Departments of State are forced to consider very carefully and in great detail exactly the consequences of what they are about to do. Is that not what our constituents would expect of this Parliament and its parliamentarians—to consider very carefully the consequences of each piece of action that it takes and what impact it may have on those constituents, their businesses and livelihoods? I urge the Government to accept the amendment and new clause.

Graham Stuart: I ask that the Committee reject the amendment and new clause. When retained EU law is a regulatory provision and is being amended significantly, we would expect Departments to put their measures through the Government systems for regulatory scrutiny, such as the better regulation framework.

Where measures are being revoked, Departments will be expected to undertake proportionate analytical appraisal, and we are exploring appropriate steps that we can take to appraise the resulting impacts. However, given that Departments will undertake proper and proportionate cost-benefit analysis in relation to amendments to retained EU law, we do not consider there to be a need to include a reference to impact assessments in clause 22, relating to commencement, as such procedures and approaches are baked into the way Departments behave. I therefore ask the hon. Gentleman to consider withdrawing the amendment.

Brendan O'Hara: I am disappointed but not in the least surprised by the Minister's response. In the future, when we pick over the detritus of the Bill and people say, "Why did they do it the way they did it?" the Government will never be able to say that they did not know what would happen and that it was not brought to their attention. They have decided to plough on regardless with this self-imposed cliff-edge deadline. I will not push the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Brendan O'Hara: I beg to move amendment 71, in clause 22, page 21, line 39, at end insert—

"(aa) section [Assessment of the impact of repeal of retained EU law];".

The Chair: With this it will be convenient to discuss new clause 7—*Assessment of the impact of repeal of retained EU law*—

"Within three months of the passage of this Act, the Secretary of State must publish an assessment of the impact of the repeal of any retained EU law done under the provisions of this Act."

Brendan O'Hara: I will again be brief. The amendment and new clause would oblige the UK Government to publish an impact assessment of the consequences of repealing retained EU law. If they are not prepared to publish an analysis before, it is incumbent on them to publish an impact assessment of the consequences of every piece of retained EU law that is being revoked, and for that impact assessment to be published no later than three months after the date that any revocation has taken place.

This proposal is similar to what we proposed with amendment 66. We understand that it will take a great deal of work for Ministers and officials, but given the seriousness of the consequences of getting this wrong, if this revocation of retained EU law has to happen, it should happen with as little negative impact on businesses and people's lives. That may mean a little extra work for Ministers, their staff and Whitehall Departments, but we think it is well worth doing.

I hope the Minister will view this amendment—indeed, all our amendments—as being in the spirit of trying to make what we have described as a truly awful piece of legislation just a little better. As we said at the outset, given the rate at which the Government are planning to proceed, mistakes are absolutely inevitable, and people—our constituents and their businesses—will be hurt by those mistakes. If the Government are not prepared to do an impact assessment before they revoke EU law, it is incumbent on them to carry one out after the EU law has been revoked so we can understand the consequences of what has happened and hopefully avoid a future catastrophe.

Graham Stuart: I thank the hon. Gentleman for the constructive spirit in which he tabled the amendment and new clause. None the less, I ask the Committee to reject them. They are similar to the previous group. Given that Departments will undertake proper and proportionate analysis in relation to amendments to retained EU law, and that effort is under way to understand the potential impacts of sunsetting, we do not consider that there is a need to include them in the Bill. I therefore ask the hon. Gentleman to withdraw them.

Brendan O'Hara: I thank the Minister for his reply. It is nice to see that the temperature has come down somewhat. If only to reassure the public that what they are doing is working, it is incumbent on the Government to provide these impact assessments. The Bill is happening hurriedly and, dare I say it, with a lack of planning, and when it hits the buffers on 31 December next year, people have a right to know what that means for them. However, I will not press the amendment to a vote. I am certain that we shall return to this issue on Report, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

11 am

Brendan O'Hara: I beg to move amendment 61, in clause 22, page 21, line 42, at end insert—

"(da) section [*Impact on the UK's obligations under the Trade and Cooperation Agreement*];".

The Chair: With this it will be convenient to discuss new clause 1—*Impact on the UK's obligations under the Trade and Cooperation Agreement*—

"Within three months of the passage of this Act, the Secretary of State must lay before Parliament an assessment of the impact of this Act on the UK's obligations under the Trade and Cooperation Agreement between the UK and the European Union done at Brussels and London on 30 December 2020."

Brendan O'Hara: When England and Wales voted to leave the European Union, and took Scotland and Northern Ireland out of the EU along with them, the United Kingdom Government signed a withdrawal agreement with Brussels. In return for certain rights and privileges in terms of trade with the EU, the United Kingdom promised not to diverge from the agreed level playing field set out in the trade and co-operation agreement.

[Brendan O'Hara]

I and many others have serious concerns that, if the Bill passes into law as it stands, the United Kingdom is in grave danger of breaching the international agreement it signed—I presume in good faith. On the presumption that the trade and co-operation agreement was signed in good faith, and that the UK Government would not knowingly and deliberately break such an important international treaty, I strongly urge the Government accept amendment 61. It would oblige the Government to publish, within three months of the Bill becoming law, an impact assessment of how the revocation of retained EU law, particularly on workers' rights and environmental protections, has affected the trade and co-operation agreement.

The Government cannot be deaf to people's concerns about the Bill, or to the genuinely held fear that, if it is pushed through unamended, and is implemented in the way that the Government have suggested, it will have a detrimental impact on the level playing field agreement with the European Union. If that happens, and if we stumble, accidentally or otherwise, into a situation in which we have broken the level playing field agreement, I fear that the United Kingdom could expect economic sanctions to follow. The last thing that the economy needs right now is another completely avoidable self-inflicted knock.

I urge the Government to accept the amendment. It makes sense. It sends a signal to our friends in the European Union that the United Kingdom is not about to unilaterally diverge from or break its international agreements, that we respect the level playing field, and that we will stick to what we said.

Justin Madders: I will be brief. This is an issue about which we are also concerned. No one wants to enter into a trade war because a Minister makes a mistake, and amends or forgets to restore regulations. That is what the Bill risks. I remind the Committee what the hon. Member for Watford (Dean Russell) said on Second Reading:

"I am very happy to make a commitment today that the Government will, as a priority, take the necessary action to safeguard the substance of any retained EU law and legal effects required to operate international obligations within domestic law. We will set out where retained EU law is required to maintain international obligations through the dashboard"—[*Official Report*, 25 October 2022; Vol. 721, c. 189.]

We are back to the dashboard. That is not quite as good as having something in the Bill, which is what the amendment seeks. However, it prompts a question for the Minister: when can we expect the commitments regarding the lovely dashboard to be honoured? We are all regularly hitting "refresh" to see whether the dashboard will be updated with the additional 100-plus or 1,400-plus Bills that have been identified. It is important that our international obligations are maintained. If there is a way of ensuring that Parliament is content, we are happy to support the amendment.

Graham Stuart: I ask the Committee to reject the amendment. None the less, the Government agree about the importance of the UK continuing to meet the obligations set out in the UK-EU trade and co-operation agreement. As a sovereign nation, we have the right to regulate as we see fit and in the best interests of the UK. This right is preserved in the UK-EU trade and co-operation agreement, and the Bill is part of us exercising that right. The level playing field provisions commit the UK and EU not to weaken or reduce overall levels of protection on labour and social standards, climate and the environment in a manner affecting trade or investment between the parties.

The Government's intention is to ensure the necessary legislation is in place to uphold the UK's international obligations. That is why we pledged on Second Reading to safeguard in domestic law the substance and legal effect of any retained EU law necessary to meet those international obligations. We have an exciting opportunity to embark on ambitious regulatory reform and remove outdated legislation that does not suit the UK. We can build on the high standards we have committed to within the trade and co-operation agreement, and at the same time boost competitiveness and productivity—something I hope the whole Committee will support. I therefore urge the hon. Member for Argyll and Bute to withdraw the amendment.

Brendan O'Hara: I thank the Minister for that response. Whether on workers' rights or environmental protection, we have heard so much evidence and correspondence from people outside this Parliament who have genuine fears that this is the starting pistol of a deregulatory race to the bottom. If that were to be the case, I fear that the United Kingdom would be in breach of the level playing field agreement. I do not think the Government have fully considered the implications of this legislation. All my amendment sought to do was force the Government to consider those implications. I would push it to a vote, but I think it is another issue we will return to at a later stage, because it is vital that we are not seen to be tearing up international agreements or flying in the face of them in the way I fear the Bill will do. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Brendan O'Hara: I beg to move amendment 65, in clause 22, page 21, line 42, at end insert—

"(da) section [Disapplication of the UK Internal Market Act 2020];"

The Chair: With this it will be convenient to discuss new clause 2—*Disapplication of the UK Internal Market Act 2020*—

"Where Scottish Ministers have used any power granted to them under this Act—

(a) to provide that any EU-derived subordinate legislation or retained direct EU legislation is not subject to revocation at the end of 2023, or

(b) to restate any provision of retained EU law (or, as the case may be, assimilated law), that legislation or provision shall apply notwithstanding any provision of the UK Internal Market Act 2020."

Brendan O'Hara: Having been mercifully brief previously, I may take slightly longer now, because I think these measures are fundamental to our concerns about the Bill. Amendment 65 and new clause 2 would ensure that UK Ministers could not use the United Kingdom Internal Market Act 2020 to undermine or deny Scottish Ministers

protecting retained EU law. These measures go to the heart of the issue—working between the internal market Act and this Bill.

We have said throughout Committee that even if this were a standalone piece of legislation, it would be sufficiently bad for us to oppose it at every step of the way. But for Scotland—and, I suspect, other devolved Governments—we have taken it in conjunction with the internal market Act. Not only does it present an existential threat to Parliament and the devolution settlement; this Bill is a disaster for crucial parts of the Scottish economy. I do not think it was coincidental or accidental. This is part of a deliberate policy to undermine and weaken devolution and the devolved Parliaments. It is designed to force the constituent parts of the United Kingdom to align their policies with those of the UK Government and to do what this Government tell them to do. The United Kingdom Internal Market Act 2020 knowingly created confusion and deliberately blurred the hitherto clear lines of demarcation that existed.

The Bill, when in effect, will impose this place's will on areas that have been wholly devolved since the Scottish Parliament was reconstituted more than two decades ago. In the areas of the environment, health, food standards and animal welfare, the democratically elected Scottish Parliament is the body that sets policy and direction. Since the internal market Act came into effect, we have seen significant encroachment by the UK Government into these wholly devolved areas. Amendment 65 and new clause 2 would ensure that if the Scottish Government and Scottish Parliament decided that they wished to remain aligned to EU law, they could do so without the imposition of the internal market Act forcing them to change their position.

The infringement into the powers of our Parliament has, I fear, become a full-scale attack, with blanket, UK-wide—from Truro to Thurso—policies being imposed in areas over which this Government have no legislative consent. It is a crusade to weaken food standards, animal welfare, product labelling, environmental health and so much else by a Government who have no mandate to operate in those fields in Scotland. As I said earlier, this is the starting pistol on the deregulatory race to the bottom. That is why the United Kingdom Internal Market Act and the Bill have been brought in in this way. It goes completely against the spirit of devolution and is in direct contravention of the Sewel convention.

Before Second Reading, I met with the regional board of the National Farmers Union of Scotland in Argyll and Bute on a farm near Oban. The message was stark: farmers feel forgotten and undervalued. They have been battered by Brexit and they now face this Bill, which, they have said, is a potential death sentence for the agriculture sector in Scotland, which requires subsidies to manage the land, keep the lights on in the hills, provide employment and stem rural depopulation, as well as producing high-quality, high-value beef, lamb and dairy.

We know that the Bill will allow the lowering of food standards. We know that it will allow the relaxation of rules around labelling and animal welfare. We know that it will allow mass importation of inferior-quality products. All that will be an unmitigated disaster for Scottish agriculture. Our farmers are also painfully aware that, as it stands, there is very little that their democratically elected Parliament can do about it.

Last Wednesday, between our sittings on Tuesday and Thursday, I met Martin Kennedy, president of the National Farmers Union of Scotland, and his officials. They repeated almost word for word what I was told by my Argyll and Bute farmers. Martin Kennedy's message to the Committee and this Government is that he and his members have severe reservations and concerns about the potential impacts of this Bill. As we do, he and his farmers accept that the Bill cannot be taken in isolation, but has to be put alongside the United Kingdom Internal Market Act.

Scottish farmers are not best noted for their political radicalism—probably because they are so busy battling the elements day and night to produce some of our best dairy and meat products—but this Government should understand that the Scottish agriculture sector is up in arms, maybe as never before, about the Bill and the United Kingdom Internal Market Act, and their disastrous consequences. If the Government will not listen to us here today and choose to ignore the Scottish Government, I implore them: listen to Martin Kennedy and his members about what this Bill will do to them, and their businesses and livelihoods. They are the ones who will bear the brunt of being forced into a UK-wide, one-size-fits-all regulatory framework that forces us to diverge from EU regulations.

When supermarket shelves become full of cheap, inferior cuts of meat, when lorryloads of chlorine-washed chicken cross the border and saturate the market, when animal welfare is a thing of the past, and when labelling rules are so relaxed that consumers do not know what they are consuming, that is a death knell for Scottish agriculture. The people of Scotland should be in no doubt that this Bill, coupled with the United Kingdom Internal Market Act, means one thing and one thing only: this place is coming for our Parliament and our democracy.

Justin Madders: Unfortunately, the new clause appears to apply only to Ministers in Scotland, not in the other devolved nations, but it does raise some important issues. If we start from the proposition that it is right that in areas of devolved competence, the devolved Administrations should have the ability to re-regulate their own priorities, which, I think, is where the Bill takes us, it does not take much to see where that might cause some difficulties, particularly when the Bill creates no wider duty in relation to the operation of the market access principles underpinning the UK internal market. The Bill creates the risk of new barriers to trade in the UK internal market. I accept that there is a conundrum there.

We want to allow the devolved nations to develop policy as per their own competencies, but there is no process in the Bill for resolution of any regulatory differences between the UK and the devolved Governments and, critically, no process for businesses or consumers to be consulted on the potential for new barriers between England, Scotland and Wales for certain categories of good. We need to understand how the Government intend to address that. Are the processes in the UK Government and devolved Administrations common frameworks post Brexit intended to apply to the Bill? If so, it is not clear from the Bill. Perhaps the Minister can reassure us on that.

11.15 am

We know from evidence from the Welsh Government that they have concerns about the intentions of the UK Government to deregulate in the way that we have

heard this morning. A progressive Labour Senedd may want to raise standards, but unfortunately the provisions under clause 15 not to increase the regulatory burden seem to jar with that. I wonder what the Minister has to say about the ability of the devolved nations to raise standards, and the overall thrust of clause 15(6).

Peter Grant: I take the initial point of the hon. Member for Ellesmere Port and Neston that we should perhaps have included the other devolved nations. It is an indication of the weakness of the Bill Committee system that sometimes some of the devolved nations have no representation whatever on a Committee. Of course, the way to address that is for the Government to signal their clear intent by accepting the amendment and undertaking to introduce an equivalent amendment protecting Northern Ireland and Wales at a later stage.

My hon. Friend the Member for Argyll and Bute raised a concern that the Bill will be used to lower standards. The Government always howl in protest and say that it will not be, but last week they insisted on including a clause that would prohibit making regulations under the Bill that placed additional burdens on businesses. They have not introduced a clause that prohibits the use of the Bill to make regulations to lower standards on workers' rights, animal welfare or anything else. I wonder why that might be.

My hon. Friend also pointed out yet again that the presumptuous way in which the UK Government forced through the United Kingdom Internal Market Act 2020 was based on the assumption that, notwithstanding the devolution settlements, Ministers in the British Government have the right to overrule the elected national Parliaments and Governments of Scotland, Wales and Northern Ireland. Although there will be cases where it is better to have similar or sometimes identical standards across these islands, the Government assume that what is decided by those who are elected by and for the people of England should automatically be what is imposed on the people of the other nations of the United Kingdom. That is not how devolution works. That is not how consensus works, which is what the Secretary of State for Scotland kept going on about last Wednesday in reply to our urgent question.

If the Government seriously want to work by consensus across the four nations, they would introduce legislation that required it to be in place before anything was done to change legislation. The Government have been reminded umpteen times over the past few weeks of the devolved competencies of our national Parliament in Scotland, Senedd Cymru and the Assembly in Northern Ireland. I appreciate that there is a different situation in Northern Ireland just now, and that there may be times when it is essential, and in the interests of the people of Northern Ireland, for the UK Parliament to act when the Northern Ireland Assembly is not functioning, but the Bill is not about stepping in in emergency circumstances. The Bill, and the clause that we are looking at, is about the Government having the right to step in wherever it suits them.

I urge the Government to accept the amendment. I know they will not, because they seem to be under orders not to listen to or accept any amendment, regardless of how sound or sensible it is, if it comes from the wrong side of the Committee. If that is an indication of the way they intend to use the powers that the Bill will give them, we should all be very concerned indeed.

Graham Stuart: I urge the Committee to reject the amendment. The UKIM Act was introduced to protect businesses, jobs and livelihoods following our exit from the EU. The amendment seeks to disapply the provisions of the UKIM Act in cases where Scottish Government Ministers use the powers contained in the Bill to preserve or restate retained EU law. The operation of the UKIM Act is essential in maintaining our integrated market to ensure the free flow of goods, services, and people through the recognition of professional qualifications throughout the UK. The UKIM Act provides certainty for businesses and consumers where divergent approaches to regulation are taken in different parts of the UK, and the provisions of the Bill do not change that.

We recognise and value four nation co-operation—that is one reason that all four Administrations jointly started the common frameworks programme—and we remain committed to working with the devolved Governments in areas of shared policy interest, including REUL. I can see why the hon. Member for Argyll and Bute, from an oppositional point of view, would make out that we will lower our standards, but that is absolutely not our intent. Food standards are a devolved matter—I think that will be reassuring for Martin and his members—and key measures in the Bill apply to the devolved Administration. Accordingly, the devolved Governments will be able to exercise the powers in the Bill to amend retained EU law in their existing devolved competencies. We will work with all the devolved Governments, including the Scottish Government, on retained EU law reforms in line with commitments and common framework agreements that cover food standards.

Brendan O'Hara: If food standards will be absolutely protected and enshrined, as the Minister said, will he give me a cast-iron guarantee that, if the Scottish Government decide they do not want chlorine-washed chicken, they can prevent lorryloads of chlorine-washed chicken from crossing the border? Can he give me a cast-iron guarantee that if the Scottish Government say that they do not want inferior, cheap, hormone-injected beef on Scottish supermarket shelves, they can prevent that from happening? Can he give me a guarantee that, should the Scottish Government decide they will stick to the legislation on animal welfare and passporting, that too will be absolutely protected in this legislation?

Graham Stuart: Of course, chlorine, chlorine dioxide and other chemical washes have not been approved for washing chicken meat, and therefore are not allowed to be used. The hon. Gentleman can paint up any number of other unfounded scare stories and ask for categorical assurance from the Government that they are not planning to kill every firstborn, but I assure the Committee that that is not our intention.

Brendan O'Hara: Let me rephrase the question. Should the UK Government decide that chlorine-washed chicken is acceptable and the Scottish Government decide it is not, could the Minister give me a cast-iron guarantee that the primacy of the Scottish Government's decision to continue to ban chlorine-washed chicken would be respected under the terms of the Bill?

Graham Stuart: Of course, it may be a question as to whether the Scottish Government decide to approve chlorine-washed chicken. Imagine if the scientific evidence provided in Scotland did that; perhaps the Scottish Government are secretly planning to bring in chlorine-washed chicken, in which case we would have to consider how that would be dealt with. In that instance or any other, the Government will continue to work closely with the devolved Governments to manage intra-UK divergence, including through existing mechanisms such as the common frameworks programme and the UK Internal Market Act.

I will not insult the Committee by suggesting that the Scottish Government will do things that I honestly do not think that they will do; I just wish that the hon. Gentleman would do us the courtesy of doing the same. I urge him to withdraw his amendment.

Brendan O'Hara: I will not withdraw the amendment, and I will seek to divide the Committee. The Minister said that the UK Internal Market Act is there to protect the interests of business; perhaps it is there to protect the interests of business as long as the business is not a Scottish farmer. This will be the death knell for the Scottish agricultural sector. Those in the sector are not the most radical group on the planet, but this Government and legislation have fired them up as I have never seen before. This is not four nation co-operation; this is as far as we can get from four nation co-operation. This is one nation imposition. On that basis, I will seek to divide the Committee.

The Chair: Order. It is 11.25 am. We will start this afternoon at 2 o'clock with a Division. I know that Members are keen to get to the Chamber, so off you go.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.