

Trade (Australia and New Zealand) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 9th January 2023, as follows –

Clauses 1 and 2	Clauses 3 and 4
Schedules 1 and 2	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

LORD LENNIE

1★ Clause 1, page 1, line 10, leave out subsections (2) and (3)

Member's explanatory statement

This amendment prevents regulations being made in relation to cases falling outside the scope of procurement Chapters of the FTAs.

LORD LENNIE

2★ Clause 1, page 1, line 15, at end insert –

“(3A) Regulations under subsection (1) may not be made before completion of such public consultation as the appropriate authority considers appropriate with the relevant –

- (a) Scottish Ministers,
- (b) Welsh Ministers,
- (c) department of the Northern Ireland Executive, and
- (d) representatives of the English regions.”

Member's explanatory statement

This amendment requires a consultation before regulations implementing the procurement Chapters can be made.

LORD LENNIE

3★ Clause 1, page 1, line 15, at end insert –

“(3A) Regulations under subsection (1) may not be made before completion of a review by the Trade and Agriculture Commission of the potential impact of the procurement Chapters on industry in the United Kingdom.”

Member's explanatory statement

This amendment requires a review by the TAC before regulations implementing the procurement Chapters can be made.

LORD LENNIE

4★ Clause 1, page 1, line 15, at end insert –

“(3A) Regulations under subsection (1) may not be made before publication of an impact assessment setting out the potential impact of the procurement Chapters on –
(a) employment rights and human rights in the United Kingdom, and
(b) climate change.”

Member's explanatory statement

This amendment requires an impact assessment on employment and human rights and climate change to be published before regulations implementing the procurement Chapters can be made.

LORD LENNIE

5★ Clause 1, page 1, line 15, at end insert –

“(3A) Regulations under subsection (1) may not be made before publication of an impact assessment setting out the potential impact of the procurement Chapters on –
(a) Scotland,
(b) Wales,
(c) Northern Ireland, and
(d) English Regions.”

Member's explanatory statement

This amendment requires a regional impact assessment to be published before regulations implementing the Procurement Chapters can be made.

LORD PURVIS OF TWEED

6★ Clause 1, page 1, line 15, at end insert –

“(3A) Regulations under subsection (1) may not make provision for procurement by regional and local contracting authorities in excess of the amount specified under Schedule 1 to the Procurement Act 2023 (threshold amounts).”

Member's explanatory statement

This amendment is intended to equalise the threshold for sub-central government procurement with the level set in the Procurement Bill.

Clause 2

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Clause 2 stand part of the Bill.

After Clause 2

BARONESS MCINTOSH OF PICKERING

7 After Clause 2, insert the following new Clause –

“Impact assessment: farmers

- (1) Before making regulations under this Act, a Minister of the Crown must publish, and lay before Parliament, an assessment of the impact of implementing the procurement Chapters on farmers and the market for food within the United Kingdom, in particular in relation to lamb and beef.
- (2) In relation to the impact on the market for food, the assessment must consider standards of production and food safety standards.”

LORD LENNIE

8★ After Clause 2, insert the following new Clause –

“Impact assessment

The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters within twelve months of the coming into force of regulations made under section 1 of this Act and every three years thereafter.”

Member's explanatory statement

This amendment requires an impact assessment within 12 months, and every three years thereafter, of regulations made under section 1.

LORD LENNIE

9★ After Clause 2, insert the following new Clause—

“Assessment of impact on farmers

At least three months, but not later than six months, after the coming into force of the procurement Chapters, a Minister of the Crown must lay before each House of Parliament an assessment of the impact of each Chapter on farmers in—

- (a) each region of England,
- (b) Scotland,
- (c) Wales, and
- (d) Northern Ireland.”

Member's explanatory statement

This amendment requires a regional assessment of the impact on farmers of the procurement Chapters.

LORD LENNIE

10★ After Clause 2, insert the following new Clause—

“Super-affirmative procedure

- (1) This section applies where an instrument is, or, as the case may be, regulations are, subject to the super-affirmative procedure.
- (2) A draft of the instrument or regulations must be laid before the relevant institution.
- (3) The appropriate authority must have regard to—
 - (a) any representations,
 - (b) any resolution of the relevant institution, and
 - (c) any recommendations of a committee of the relevant institution charged with reporting on the draft,
 made during the 60-day period with regard to the draft.
- (4) If after the expiry of the 60-day period the instrument is or, as the case may be, regulations are approved by a resolution of the relevant institution, the appropriate authority may make an instrument or statutory rule in the terms of the draft.
- (5) If after the expiry of the 60-day period the appropriate authority wishes to proceed with the draft but with material change, the authority may lay before the relevant institution—
 - (a) a revised draft, and
 - (b) a statement giving a summary of the changes proposed.
- (6) If the revised draft is approved by a resolution of the relevant institution, the appropriate authority may make an instrument or, as the case may be, statutory rule in the terms of the revised draft.

- (7) For the purpose of this section an instrument or statutory rule is made in the terms of a draft if it contains no material changes to its provisions.
- (8) In this section, references to the “60-day” period in relation to any draft are to the period of 60 days beginning with the day on which the draft was laid before the relevant institution.
- (9) For the purposes of subsection (8) no account is to be taken of any time during which—
 - (a) if the relevant institution is the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, that institution is dissolved or is in recess for more than four days;
 - (b) if the relevant institution is both Houses of Parliament, Parliament is dissolved or prorogued, or either House of Parliament is adjourned for more than four days.
- (10) In this section, “relevant institution” means—
 - (a) in the case of an instrument to be made by a Minister of the Crown—
 - (i) for the purposes of subsections (2), (5) and (8), both Houses of Parliament,
 - (ii) for the purposes of subsection (3), either House of Parliament, or
 - (iii) for the purposes of subsections (4) and (6), each House of Parliament;
 - (b) in the case of an instrument to be made by Scottish Ministers, the Scottish Parliament;
 - (c) in the case of an instrument to be made by Welsh Ministers, Senedd Cymru;
 - (d) in the case of regulations to be made by a Northern Ireland department, the Northern Ireland Assembly;
 - (e) in the case of an instrument to be made by appropriate authorities acting jointly—
 - (i) for the purposes of subsections (2), (5) and (8), both Houses of Parliament,
 - (ii) for the purposes of subsection (3), either House of Parliament, or
 - (iii) for the purposes of subsections (4) and (6), each House of Parliament,and, as the case may be, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.”

Member's explanatory statement

The amendment sets out the super-affirmative procedure in relation to other amendments in the name of Lord Lennie.

LORD LENNIE

11★ After Clause 2, insert the following new Clause—

“Impact Assessment: National Health Service

The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters on the National Health Service within three years of the date of Royal Assent to this Act.”

Member's explanatory statement

This amendment requires an NHS impact assessment of the procurement Chapters.

LORD LENNIE

12★ After Clause 2, insert the following new Clause—

“Review of negotiation of procurement Chapters

Within one year of the passing of this Act, the Secretary of State must publish—

- (a) a review of the lessons learned from the negotiation of the procurement Chapters, and
- (b) an assessment of how this experience might inform negotiations of future free trade agreements.”

Member's explanatory statement

This amendment requires a review of the negotiation of the procurement Chapters.

LORD LENNIE

13★ After Clause 2, insert the following new Clause—

“Impact assessment: climate change

The Secretary of State must lay before each House of Parliament an assessment of the impact of the implementation of the procurement Chapters on tackling climate change, not less than two years, but not more than three years, after the day on which this Act is passed.”

Member's explanatory statement

This amendment requires a climate change impact assessment of the procurement Chapters.

LORD LENNIE

14★ After Clause 2, insert the following new Clause—

“Impact assessment: labour rights

The Secretary of State must lay before each House of Parliament an assessment of the impact of the implementation of the procurement Chapters on labour rights,

not less than two years, but not more than three years, after the day on which this Act is passed.”

Member's explanatory statement

This amendment requires a labour rights impact assessment of the procurement Chapters.

LORD PURVIS OF TWEED
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

15★ After Clause 2, insert the following new Clause—

“Impact assessment: British farmers

- (1) Regulations under section 1(1)(a) may not be made unless the Secretary of State has published an assessment of the impact of the implementation of the procurement Chapters on—
 - (a) livestock farmers,
 - (b) arable farmers,
 - (c) upland farmers,
 - (d) tenant farmers, and
 - (e) family farmers.
- (2) The impact assessment under subsection (1) must be published within six months of the passing of this Act.”

Member's explanatory statement

This new clause would require the Secretary of State to report on the impact of the procurement Chapters on British farmers.

LORD PURVIS OF TWEED

16★ After Clause 2, insert the following new Clause—

“Review of effect on small businesses

- (1) Regulations under section 1(1)(a) may not be made unless the Secretary of State has laid before each House of Parliament an assessment of the impact of the implementation of the procurement Chapters on small businesses.
- (2) The assessment must consider in particular the impact of those Chapters on the ability of small businesses—
 - (a) to import goods,
 - (b) to export goods,
 - (c) to employ staff, and
 - (d) to remain solvent.
- (3) The assessment must also consider the impact of those Chapters on United Kingdom opportunities to supply goods and services.

- (4) The impact assessment under subsection (1) must be published within six months of the passing of this Act.
- (5) In this section, “small businesses” means any business which has average headcount of staff of less than 50 in the tax year 2022-23.”

Member's explanatory statement

This new clause would require the Secretary of State to report on the impact of the procurement Chapters on small businesses.

LORD PURVIS OF TWEED
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

17★ After Clause 2, insert the following new Clause—

“Impact assessment: environmental standards etc

- (1) Regulations under section 1(1)(a) may not be made unless the Secretary of State has published an assessment of the impact of the implementation of the procurement Chapters on—
 - (a) environmental standards,
 - (b) food standards,
 - (c) animal welfare standards, and
 - (d) biodiversity.
- (2) The impact assessment under subsection (1) must be published within six months of the passing of this Act.”

Member's explanatory statement

This new clause would require the Secretary of State to report on the impact of the procurement Chapters on environmental, food and animal welfare standards, and biodiversity.

LORD PURVIS OF TWEED

18★ After Clause 2, insert the following new Clause—

“Procurement standards

Regulations under section 1(1)(a) may not be made unless the Secretary of State has laid before each House of Parliament a report outlining reporting and accountability mechanisms to maintain social, labour and environmental standards in procurement matters arising out of, or related to, the government procurement Chapters of the UK-Australia and UK-New Zealand FTAs.”

Member's explanatory statement

This new clause would require the Secretary of State to lay a report outlining reporting and accountability mechanisms to maintain social, labour and environmental standards.

LORD PURVIS OF TWEED

19★ After Clause 2, insert the following new Clause—

“Procurement Act: saving provisions

- (1) Paragraph 3 of Schedule 11 to the Procurement Act 2023 is amended as follows.
- (2) At the beginning insert “Any provisions in”.
- (3) At the end insert “which were included in the Bill when it was brought from the House of Commons to the House of Lords”.

Member's explanatory statement

This new clause would ensure that any changes made to this Bill in the House of Lords would not be repealed by provisions under the Procurement Bill.

Schedule 2

LORD LENNIE
BARONESS MCINTOSH OF PICKERING

20★ Schedule 2, page 9, line 5, leave out from “section 1” to end of line 6 and insert “may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”

Member's explanatory statement

This amendment requires draft regulations to be approved before a statutory instrument can be made in England, rather than allowing them to be annulled by a resolution of either House.

LORD LENNIE

21★ Schedule 2, page 9, line 5, leave out from “to” to the end of line 6 and insert “the super-affirmative procedure”

Member's explanatory statement

Requires the super-affirmative procedure for regulations made under section 1 in England, rather than allowing them to be annulled by a resolution of either House.

LORD LENNIE

22★ Schedule 2, page 9, line 8, leave out from “to” to the end of line 9 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure for regulations made under section 1 in Scotland.

LORD LENNIE

- 23★ Schedule 2, page 9, line 11, leave out from “section 1” to end of line 12 and insert “may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.”

Member's explanatory statement

This amendment requires draft regulations to be approved before a statutory instrument can be made in Wales, rather than allowing them to be annulled by a resolution of Senedd Cymru.

LORD LENNIE

- 24★ Schedule 2, page 9, line 11, leave out from “to” to the end of line 12 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure for regulations made under section 1 in Wales, rather than allowing them to be annulled by a resolution of Senedd Cymru.

LORD LENNIE

- 25★ Schedule 2, page 9, line 14, leave out from “1” to end of line 16 and insert “may not be made under this Act unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”

Member's explanatory statement

This amendment requires draft regulations to be approved before a statutory instrument can be made in Northern Ireland, rather than subjecting them to negative resolution.

LORD LENNIE

- 26★ Schedule 2, page 9, line 14, leave out from “to” to the end of line 16 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure for regulations made under section 1 in Northern Ireland, rather than subjecting them to negative resolution.

LORD LENNIE

- 27★ Schedule 2, page 9, line 25, leave out from “applies” to end of line 26 and insert “may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”

Member's explanatory statement

This amendment requires draft regulations to be approved in England before regulations made jointly with a devolved authority can be made under section 1.

LORD LENNIE

- 28★ Schedule 2, page 9, line 25, leave out from “to” to the end of line 26 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure in England for regulations made jointly with a devolved authority under section 1.

LORD LENNIE

- 29★ Schedule 2, page 9, line 28, leave out “negative” and insert “super-affirmative”

Member's explanatory statement

This amendment requires the super-affirmative procedure in Scotland for regulations made jointly between a Minister of the Crown and Scotland under section 1.

LORD LENNIE

- 30★ Schedule 2, page 10, line 2, leave out from “Ministers” to end of line 3 and insert “may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.”

Member's explanatory statement

This amendment requires draft regulations to be approved in Wales before regulations are made jointly between a Minister of the Crown and Wales under section 1.

LORD LENNIE

- 31★ Schedule 2, page 10, leave out line 3 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure in Wales for regulations made jointly between a Minister of the Crown and Wales under section 1.

LORD LENNIE

- 32★ Schedule 2, page 10, line 5, leave out from “department” to end of line 7 and insert “may not be made under this Act unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”

Member's explanatory statement

This amendment requires draft regulations to be approved in Northern Ireland before regulations are made jointly between a Minister of the Crown and Northern Ireland under section 1.

LORD LENNIE

- 33★ Schedule 2, page 10, line 5, leave out from “to” to the end of line 7 and insert “the super-affirmative procedure”

Member's explanatory statement

This amendment requires the super-affirmative procedure in Northern Ireland before regulations are made jointly between a Minister of the Crown and Northern Ireland under section 1.

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Schedule 2 be the second Schedule to the Bill.

Clause 4

LORD LENNIE

- 34★ Clause 4, page 3, line 5, at end insert –
- “(4) This Act expires at the end of the period of two years beginning with the day on which it is passed.”

Member's explanatory statement

This amendment adds a sunset clause to the legislation.

LORD LENNIE

- 35★ Clause 4, page 3, line 5, at end insert –
- “(4) If the United Kingdom becomes a full member of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, this Act expires on the day that the United Kingdom becomes a full member.”

Member's explanatory statement

This amendment expires the legislation if the UK joins the CPTPP.

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19 January 2023

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