



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 December 2020 to 25 March 2021

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Foreword

Since 2017, the UK Government and devolved administrations have been working together to develop agreements covering a range of policy areas that have returned from the European Union and that intersect with devolved competence. The development of UK Common Frameworks is guided by principles agreed at the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017 between the UK Government and Scottish and Welsh Governments, and, later on 15 June 2020, endorsed by the Executive Committee of the Northern Ireland Executive.

Under Schedule 3 of the European Union (Withdrawal) Act 2018, the UK Government has a statutory requirement to report to UK Parliament every three months on the progress made on the development of UK Common Frameworks. This eleventh European Union Withdrawal and Common Frameworks report details progress from 26 December 2020 to 25 March 2021. In addition to progress made, the report details that the UK Government did not make use of powers under Section 12 of the European Union (Withdrawal) Act 2018 to temporarily limit devolved competence in any policy areas.

The UK Government and devolved administrations have remained committed to progressing UK Common Frameworks. By the end of this reporting period, eight Common Frameworks achieved provisional confirmation status. The UK, Scottish and Welsh Governments provisionally agreed a further 15 frameworks and the UK Government also approved six frameworks that only apply to Northern Ireland. Work has been ongoing to secure provisional approval for all 21 frameworks, whilst they have been operating on an interim basis across the UK at official level, reflecting established ways of working between the administrations.

Parliamentary engagement progressed well in this reporting period, with four provisional frameworks - Public Procurement, Food Compositional Standards and Labelling, Blood Safety and Quality, and Organs, Tissues and Cells - being laid in UK Parliament. UK Parliament and devolved legislatures also provided their remaining recommendations on the three provisional frameworks that were submitted for parliamentary scrutiny in 2020: Nutrition Labelling, Composition and Standards; Hazardous Substances (Planning); and Food and Feed Safety and Hygiene Law. Work progressed to prepare the remaining provisional frameworks for scrutiny in 2021, and, where appropriate, preparations were initiated to plan any future technical engagement with stakeholders.

Progress has been made in preparing UK Government departments for their greater role in the future oversight of Frameworks falling within their purview and ensuring that operating within Common Frameworks becomes 'business as usual' and a standard way of working for the relevant UK Government departments, as noted in the recent progress update on the review of intergovernmental relations.

During this reporting period, the Trade and Cooperation Agreement and the Northern Ireland Protocol came into force and the UK Internal Market Act was enacted shortly before the reporting period began. Work to resolve any issues arising from the interaction between these policy areas and UK Common Frameworks is well underway, in order to make regulation within the UK work for all of its citizens and businesses.

Implementation of Common Frameworks

- 1.1. Part 2 of Schedule 3 to the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown report to Parliament at three month intervals on various matters pertaining to Common Frameworks, and the use of the powers in Section 12 of, and Schedule 3 to, the 2018 Act to temporarily maintain EU law limits on devolved competence. Reports are shared with the devolved administrations to enable them to maintain a concurrent level of scrutiny. The last report was published on 18 March 2021 and covered the reporting period 26 September to 25 December 2020.¹
- 1.2. The purpose of these reports is to ensure that the process of developing Common Frameworks, in collaboration with the devolved administrations, is transparent and subject to robust parliamentary scrutiny.

Principles for Common Frameworks

- 1.3. Under the Withdrawal Agreement, EU law continued to apply to and in the UK during the Transition Period which ended on 31 December 2020. Under the devolution settlements and until the end of the Transition Period, the devolved legislatures and administrations could not act incompatibly with EU law. The EU laws created common UK-wide approaches even where those policy areas were otherwise within devolved competence. The UK Government and devolved administrations have agreed that common approaches will continue to be required in some areas now the UK has left the EU and the Transition Period has ended.
- 1.4. In October 2017, the Joint Ministerial Committee (EU Negotiations) agreed upon principles to guide the work to create Common Frameworks.² These principles are set out below:
 1. *Common Frameworks will be established where they are necessary in order to:*
 - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
 - *ensure compliance with international obligations;*
 - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
 - *enable the management of common resources;*
 - *administer and provide access to justice in cases with a cross-border element;*
 - *safeguard the security of the UK.*
 2. *Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/968066/2021-01-04-OFF-SEN-Tenth-EUWA-and-Common-Frameworks-Report-1.pdf

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

- *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
 - *maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules;*
 - *lead to a significant increase in decision-making powers for the devolved administrations.*
3. *Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*

1.5. The Northern Ireland Executive endorsed the JMC(EN) principles in June 2020. These principles continue to guide all discussions between the UK Government and the devolved administrations on Common Frameworks. Details of how these principles have been taken into account are included in this report, and will be included in future iterations of this publication.

Progress Towards Establishing Frameworks

1.6. The following section sets out the steps taken during this reporting period by the UK Government, in collaboration with the devolved administrations, towards implementing long-term Common Frameworks. It also outlines how the frameworks principles have been taken into account.

Frameworks Delivery

1.7. The work to establish Common Frameworks has five phases. The delivery plan below illustrates how a framework moves through these five phases of development. Each framework moves through this process at a different pace.

- **Phase 1: Principles and proof of concept:** consists of engagement between UK Government and devolved administration officials (also referred to as multilateral deep dives) to focus on legislative and key non-legislative frameworks, as well as to establish some of the interdependencies that affect multiple frameworks.
- **Phase 2: Policy development:** detailed policy development takes place, including joint work between UK Government and devolved administration officials to agree policy approaches and operational and governance arrangements for each policy area. Initial stakeholder engagement also takes place, where appropriate. This results in jointly drafted and agreed outline frameworks.
- **Phase 3: Review and consultation:** UK Government and devolved administrations collaborate to further develop and finalise policy approaches, explore interactions with cross-cutting workstreams, and agree operational and governance arrangements. Technical engagement takes place with sector-specific stakeholders. Towards the end of Phase 3, in-depth review and assessment takes place, conducted jointly at official level. This phase

results in cross-departmental collective agreement on the policy approach within the UK Government, and provisional confirmation of frameworks by members of JMC(EN). This in-depth review and joint confirmation ensures that a minimally operable framework, recognised as a 'provisional framework', is developed.

- **Phase 4: Preparation and implementation:** after JMC(EN) ministerial confirmation of a provisional framework, provisional frameworks are shared with legislatures to enable parliamentary scrutiny. UK Government and devolved administration officials work jointly on any ongoing reappraisals of cross-cutting issues, and review parliamentary recommendations in order to finalise individual frameworks. At the end of this phase, the provisional framework receives ministerial approval from the intergovernmental forum responsible for the Common Frameworks programme and the successor to JMC(EN) (which is being agreed through the review of intergovernmental relations).
- **Phase 5: Post-implementation:** post-implementation arrangements take place, including regular cycles of review and, if appropriate, amendment. These vary between frameworks and details continue to be developed as the Common Frameworks programme progresses.

- 1.8. Frameworks have continued to be developed in 2021, depending on the requirements of the particular policy area. This may require a combination of legislative and non-legislative measures. A detailed overview of which frameworks fall into legislative or non-legislative categories can be found in the Frameworks Analysis 2020 published on 24 September 2020.³ A further analysis will be published later in 2021.
- 1.9. The delivery process detailed above accounts for the need for frameworks to be implemented in different ways, with some activities undertaken concurrently, to ensure that all of the necessary steps have been completed. As a result, frameworks will move forward and be finalised at different points in time, depending on their individual requirements.

Delivery Plan

- 1.10. Following the capacity pressures on officials working across the UK Common Frameworks programme as a result of the COVID-19 outbreak in 2020, the UK Government and the devolved administrations have remained committed to delivering Common Frameworks and the programme continued to make progress in early 2021.
- 1.11. Work on individual frameworks during 2021 has been ongoing, to take account of the cross-cutting issues that apply to those frameworks and the likelihood of them benefitting from any further technical stakeholder engagement. Delivery timelines for each framework will vary according to the cross-cutting issues that apply, any further

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919729/Frameworks-Analysis-2020.pdf

stakeholder engagement and whether the framework intersects with the devolved competence of one or all devolved administrations.

- 1.12. The pre-election period for the election to the Senedd and Scottish Parliament began on the last day of this reporting period (25 March 2021). During this reporting period, the Cabinet Office liaised with the devolved administrations to coordinate the continued progression of the programme during the pre-election period while respecting the guidance for civil servants of all administrations to maintain impartiality during the period. Both the Scottish Government and Welsh Government have committed to continuing to participate in meetings between officials, through the Frameworks Project Team and Frameworks Project Board meetings and will seek to make progress on frameworks where possible and appropriate.

Framework Coordination

- 1.13. Common Frameworks are being developed through constructive discussions between the UK Government and devolved administrations. This has continued during the latest reporting period.
- 1.14. During this reporting period, there were two meetings of the UK Government-devolved administrations Frameworks Project Board, involving Cabinet Office senior officials and their counterparts in the devolved administrations. The Project Board monitors progress and facilitates agreement on the direction of the Common Frameworks programme.
- 1.15. At an operational level, there have been weekly Frameworks Project Team meetings between officials in the UK Government and the devolved administrations, where productive, collaborative work has been undertaken to support the detailed development of frameworks by policy officials.
- 1.16. Multiple meetings have taken place between officials in the Cabinet Office, other government departments and the devolved administrations. These include working group meetings on individual frameworks across the Common Frameworks programme.
- 1.17. Cabinet Office, as programme coordinator, has continued to engage with departments across the UK Government during this reporting period. This has been done via the fortnightly Frameworks Deputy Director Group on strategic policy development and planning, and the monthly Frameworks Working Group to provide policy leads with updates, discuss barriers and drive progress.

Programme Development

Provisional Confirmation

- 1.18. During this reporting period, JMC(EN) ministers agreed five further provisional frameworks, bringing the total of provisionally confirmed frameworks to eight. A provisional framework is an outline framework which has been agreed by JMC(EN)

having first undergone collaborative policy development, testing of policy conclusions, peer review and, where appropriate, external sector-specific engagement.

- 1.19. Additionally, the UK Government, Scottish Government and Welsh Government had provisionally agreed a further 15 frameworks and the UK Government had also provisionally approved six frameworks that only intersect with Northern Ireland. These 21 frameworks have been operating on an interim basis across the UK at official level while their provisional confirmation is awaited. The operation of these frameworks reflects established ways of working between the administrations.

Phase 4 Development

- 1.20. All provisional frameworks continued to undergo development towards their finalisation, which requires conclusion of:
- a) Any remaining framework-specific policy development, including the resolution of cross-cutting issues;
 - b) Any further technical stakeholder engagement required; and
 - c) Parliamentary scrutiny by the legislatures of each administration with an interest in the framework.
- 1.21. The UK Government and devolved administrations developed a Phase 4 review process that will prepare provisional frameworks for full implementation. Once the framework has been fully developed and parliamentary scrutiny has been completed, a final official-level review at the end of Phase 4 will precede final ministerial confirmation by each administration as full frameworks.
- 1.22. Whilst the steps towards final agreement are the same across the programme as a whole, each framework will follow an individual timeline depending on the level of further policy development required and the timing of scrutiny by different committees across UK Parliament, Scottish Parliament, Welsh Parliament (Senedd Cymru) and the Northern Ireland Assembly.

Hazardous Substances

- 1.23. The scrutiny of the Hazardous Substances (Planning) Framework continued with recommendations being issued by the Scottish and Welsh Parliaments and the Northern Ireland Assembly on 13 and 21 January and 4 February respectively. The relevant House of Lords and House of Commons Committees had previously provided recommendations in December 2020.
- 1.24. The UK Government and devolved administrations agreed amendments to the framework to take account of these recommendations. The amended framework was subsequently agreed by the Frameworks Project Board on 16 March and Portfolio Ministers completed their clearance on 22 March. The framework was submitted for final approval by the ministers responsible for intergovernmental relations from each administration, at the end of the reporting period.

Transparency

- 1.25. The UK Government is committed to transparency in the UK Common Frameworks programme. The European Union (Withdrawal) Act and Common Frameworks report, detailing programme delivery and individual framework development, will continue to be laid quarterly, as per statutory requirements. These reports, alongside a number of provisional frameworks and associated publications can be accessed on the UK Government's UK Common Frameworks webpage on gov.uk.⁴

Parliamentary Engagement

- 1.26. On 23 March, four provisional frameworks were laid in UK Parliament and published on gov.uk. UK Government departments advised chairs of their respective UK Parliament committees of the update, and similar steps were taken across the devolved administrations prior to the Scottish and Welsh pre-election period. The four provisional frameworks are: Public Procurement, Food Compositional Standards and Labelling, Blood Safety and Quality, and Organs, Tissues and Cells (apart from embryos and gametes).
- 1.27. The Public Health Protection and Health Security Framework was also provisionally confirmed during this reporting period. It is intended that this framework will be laid before Parliament and published, once the UK Government and devolved administrations have further updated it to reflect recent public health developments across the UK and the impact of the operation of the UK-EU Trade and Cooperation Agreement.
- 1.28. During this reporting period, UK Parliament and devolved legislatures submitted recommendations arising from parliamentary scrutiny conducted on Hazardous Substances (Planning); Nutrition Labelling, Composition and Standards; and Food and Feed Safety and Hygiene Law. The UK Government and devolved administrations began jointly considering the parliamentary recommendations for all three frameworks, and during this reporting submitted a revised Hazardous Substances (Planning) Framework for Ministerial approval.
- 1.29. At an official level, the UK Government and UK Parliament have worked closely to prepare for formal scrutiny of UK Common Frameworks. As a result, the majority of UK Government departments have now sent summaries of their provisional frameworks committees to UK Parliamentary committees. Framework summaries shared with UK Parliament in this reporting period include: Company Law, Late Payments, Radioactive Substances, and Specified Quantities and Packaged Goods Legislation.
- 1.30. The UK Government has continued to engage constructively with the House of Lords Common Frameworks Scrutiny Committee (CFSC). On 23 February, the Minister for the Constitution and Devolution, Chloe Smith MP, gave evidence to the CFSC by providing an update and answering committee questions on the Common Frameworks programme. The Committee has continued to take a close interest in the

⁴ <https://www.gov.uk/government/collections/uk-common-frameworks>

programme and has issued 10 letters to UK Government ministers during the reporting period, including providing recommendations on the Food and Feed Safety and Hygiene Law Framework.

- 1.31. The UK Government continues to engage with the House of Commons. The Parliamentary Secretary at the Cabinet Office, Julia Lopez MP, attended the House of Commons Public Administration and Constitutional Affairs Committee on 2 March to give evidence on the Public Procurement Framework and wider programme. The Minister for the Constitution and Devolution corresponded with Bernard Jenkin MP, Chair of the House of Commons Liaison Committee, on matters including programme progress, parliamentary scrutiny, and intergovernmental relations.

Stakeholder Engagement

- 1.32. The UK Government and devolved administrations work collaboratively to conduct a programme of engagement with sector-specific experts at various points in the development of each framework. This engagement is conducted jointly across all administrations, where possible; the process updates stakeholders on the development of specific frameworks and affords stakeholders an opportunity to input their views and expertise.
- 1.33. In this reporting period, provisional frameworks were reviewed by the Cabinet Office and policy-owning departments, taking account of discussions with the devolved administrations, to determine what additional technical stakeholder engagement may be required, if any. Where appropriate, preparations were initiated to plan any future engagement with stakeholders.

Cross-Cutting Issues

- 1.34. Work was carried out with UK Government policy-owning departments and devolved administrations to ascertain and swiftly address the range of cross-cutting issues within individual frameworks. The Frameworks Project Board has now established a joint sub-group to facilitate this.

Northern Ireland and the Ireland/Northern Ireland Protocol

- 1.35. The principles for Common Frameworks agreed at JMC(EN) on 16 October 2017 state that “frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land border with the EU. They will also adhere to the Belfast Agreement”.
- 1.36. The Protocol on Ireland/Northern Ireland to the Withdrawal Agreement, including the Unilateral Declaration on Consent made by the UK Government, avoids a hard border on the island of Ireland, whilst ensuring that the UK, including Northern Ireland, could leave the EU as a whole. As long as the Protocol is in force, special provisions apply in Northern Ireland. These include (but are not exhausted by) Northern Ireland remaining within the UK’s customs territory but aligning with the EU

on goods (including certain laws for VAT on goods), and EU tariffs applying in Northern Ireland except for movements within the single customs territory of the UK. A number of pieces of EU legislation will continue to apply directly in Northern Ireland by virtue of the Protocol, in certain policy areas. These are set out in the Annexes to the Protocol.

- 1.37. The Protocol came into force during this reporting period. The operation of Common Frameworks will not have any adverse consequences for the implementation of the Protocol, and Common Frameworks contain the governance structures needed to manage divergence arising from the Protocol.

Trade and Cooperation Agreement

- 1.38. The UK-EU Trade and Cooperation Agreement (TCA) came into force during this reporting period. The TCA changes the basis of the UK's relationship with the EU and many of the provisions of this agreement overlap with policy areas that intersect with Common Frameworks.
- 1.39. The UK Government and the devolved administrations are currently considering how the TCA should best be referenced within the Common Frameworks.

UK Internal Market

- 1.40. The UK Internal Market Act came into force in this reporting period, establishing the UK's internal market regime by placing in legislation the market access principles of mutual recognition and non-discrimination.
- 1.41. The UK Government began work on implementing the provisions within the Act, including those which relate to Common Frameworks. Discussions on this are progressing at official level between UK Government and the devolved administrations.

Intergovernmental Review

- 1.42. In this reporting period, the UK Government published an update on the Intergovernmental Relations Review, alongside the Dunlop Review and the first iteration of the Intergovernmental Relations Quarterly Report.
- 1.43. The revised intergovernmental relations structures agreed through the review will likely form much of the context in which Common Frameworks will operate, as well as providing part of the route for dispute resolution within Common Frameworks.

Legislation Relating to Retained EU Law Restrictions

- 1.44. Section 12 of the European Union (Withdrawal) Act 2018 removed the requirements in each of the devolution statutes that the devolved legislatures could only legislate in

ways that were compatible with EU law. The Act then replaced those requirements with powers for the UK Government to apply, by regulations, a temporary 'freeze' on devolved competence in specified areas, subject to the approval of the UK Parliament, via the draft affirmative scrutiny procedure. These provisions came fully into force at the end of the Transition Period.

- 1.45. The process for making, agreeing and revoking these regulations can be found in the first European Union (Withdrawal) Act and Common Frameworks report.

Regulations to 'Freeze' Devolved Competence

Retained EU law restrictions applied during reporting period

- 1.46. No regulations have been made to apply retained EU law restrictions under these powers during the reporting period.

Progress towards removal of retained EU law restrictions

- 1.47. No retained EU law restrictions made under the powers in Sections 30A and 57(4) of the Scotland Act 1998, Sections 80(8) and 109A of the Government of Wales Act 2006, or Sections 6A and 24(3) of the Northern Ireland Act 1998 had effect at the end of the reporting period.

Regulations to Repeal the 'Freezing' Powers

- 1.48. In addition to the 'freezing' powers inserted into the devolution statutes by the European Union (Withdrawal) Act, Section 12(9) confers a power on UK Ministers to repeal, by regulations, the new provisions containing those powers.

Powers to apply retained EU law restrictions repealed during reporting period

- 1.49. No regulations have been made under Section 12(9) of the European Union (Withdrawal) Act to repeal the powers to apply retained EU law restrictions during the reporting period.

Progress required in order to repeal the powers to apply retained EU law restrictions

- 1.50. The UK Government has not sought to make use of the powers to apply retained EU law restrictions at this juncture. As outlined earlier in this report, significant progress is being made across policy areas to establish Common Frameworks in collaboration with the devolved administrations.
- 1.51. The 'freezing' powers provide a mechanism to give certainty across those areas where common rules do need to be maintained, by ensuring that there will not be substantive policy change in different parts of the UK until those future arrangements are in place. In order to remove those powers from the statute book, further progress

towards the implementation of Common Frameworks would be needed. The UK Government will keep this position under review, in line with the statutory duty in Section 12(10) of the European Union (Withdrawal) Act.