

European Charter of Local Self-Government (Incorporation) (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Section 1
Sections 2 to 11

Schedule
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Aileen Campbell

1 In section 1, page 1, line 7, at end insert—

<() For the purposes of this Act, the Charter Articles are to be read subject to any reservations, objections or interpretative declarations by the United Kingdom as may be in force from time to time.>

Section 2

Andy Wightman

Supported by: Aileen Campbell

2 In section 2, page 1, line 12, leave out subsection (1) and insert—

<(1) The Scottish Ministers must ensure that any action they take in the exercise of their functions is compatible with the Charter Articles.>

Aileen Campbell

Supported by: Andy Wightman

3 In section 2, page 1, line 19, leave out from <, introduction> to end of line and insert <or introduction of, or the exercise of other functions in relation to, a Bill for an Act of the Scottish Parliament>

Andy Wightman

Supported by: Aileen Campbell

4 In section 2, page 1, leave out line 20 and insert—

<() For the purposes of subsection (1), a failure to act (including a failure to make subordinate legislation) is to be treated as the taking of action.>

Section 3

Aileen Campbell

Supported by: Andy Wightman

- 5 In section 3, page 2, line 14, leave out <persons with an interest in local government in Scotland> and insert <—
- (a) such persons appearing to them to be representative of the interests of local authorities, and
 - (b) such other persons as they consider appropriate>

Section 4

Aileen Campbell

Supported by: Andy Wightman

- 6 In section 4, page 2, line 16, leave out from <(whether> to <Parliament> in line 18 and insert <mentioned in subsection (1A)>

Aileen Campbell

Supported by: Andy Wightman

- 7 In section 4, page 2, line 19, at end insert—
- <(1A) That legislation is an Act or subordinate legislation (whenever enacted) to the extent that its provisions are within the legislative competence of the Scottish Parliament.>

Aileen Campbell

Supported by: Andy Wightman

- 8 In section 4, page 2, leave out line 21

Section 5

Andy Wightman

Supported by: Aileen Campbell

- 9 In section 5, page 2, line 38, after <Court> insert <of the United Kingdom>

Andy Wightman

Supported by: Aileen Campbell

- 10 In section 5, page 3, line 4, leave out <only>

Andy Wightman

Supported by: Aileen Campbell

- 11 In section 5, page 3, line 5, after <legislation> insert <only>

Section 6

Andy Wightman

Supported by: Aileen Campbell

19 In section 6, page 3, line 10, at end insert—

<() Regulations made under subsection (1) may not create, widen the scope of, or increase the penalty for, a criminal offence.>

After section 6

Andy Wightman

Supported by: Aileen Campbell

13 After section 6, insert—

<Enhanced scrutiny of regulations under section 6(1)>

(1) Before laying a draft Scottish statutory instrument containing regulations under section 6(1) before the Scottish Parliament for approval, the Scottish Ministers must lay before the Parliament—

- (a) a draft of the regulations, and
- (b) an explanatory statement complying with subsection (2).

(2) The explanatory statement must explain—

- (a) the nature of the incompatibility with the Charter Articles to which the draft regulations relate,
- (b) how the draft regulations address the incompatibility,
- (c) whether the draft regulations include provision that goes beyond what is necessary to address the incompatibility and, if so, why that provision is included, and
- (d) why the Scottish Ministers are proposing to use the power under section 6(1) as opposed to taking other action.

(3) Where the Scottish Ministers lay draft regulations under subsection (1)(a), they must not lay before the Scottish Parliament for approval a draft Scottish statutory instrument containing the regulations before the expiry of the period of 60 days beginning with the day on which the draft regulations are laid under subsection (1)(a).

(4) In calculating the period of 60 days for the purposes of subsection (3), no account is to be taken of any period during which the Parliament is—

- (a) dissolved, or
- (b) in recess for more than 4 days.>

Aileen Campbell

13A As an amendment to amendment 13, line 23, at end insert—

<() Failure to comply with the requirement in subsection (3) in relation to a draft Scottish statutory instrument does not prevent the regulations contained in the draft instrument from being approved and made.

- () Where a draft Scottish statutory instrument is laid before the Scottish Parliament for approval in breach of the requirement in subsection (3), the Scottish Ministers must explain to the Presiding Officer why the requirement has been breached.>

Section 7

Andy Wightman

Supported by: Aileen Campbell

- 14 In section 7, page 3, line 15, after <where> insert <a court decides that>

Andy Wightman

Supported by: Aileen Campbell

- 15 In section 7, page 3, line 16, leave out <a court decides that>

Andy Wightman

Supported by: Aileen Campbell

- 16 In section 7, page 3, line 17, leave out <this Act> and insert <section 2>

Andy Wightman

Supported by: Aileen Campbell

- 17 In section 7, page 3, leave out lines 18 and 19 and insert—
<(ii) (disregarding any possibility of revocation) primary legislation does not prevent removal of the incompatibility.>

After section 9

Aileen Campbell

- 18 After section 9, insert—

<Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).>

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