

UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Legislative competence and meaning of “exit day”

58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 72, 73, 74, 78, 80, 82, 88, 97, 104, 105, 112, 114, 143, 161, 162, 163, 203, 204, 55, 205, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 229, 230, 231

Notes on amendments in this group

Amendment 60 pre-empts amendment 61

Amendment 63 pre-empts amendment 64

Amendment 88 is pre-empted by amendment 85 in group “Standing in Scots law of general principles of EU law, Charter of Fundamental Rights and other rights and protections”

Amendment 97 is pre-empted by amendment 93 in group “Standing in Scots law of general principles of EU law, Charter of Fundamental Rights and other rights and protections”

Amendment 204 pre-empts amendment 55

Saving and incorporation of existing EU law: miscellaneous

69, 70, 75, 79, 81, 83

Act to be subject to European Union (Withdrawal) Bill

71, 76, 77, 84, 106, 113, 132, 133, 146, 147, 201, 226

Standing in Scots law of general principles of EU law, Charter of Fundamental Rights and other rights and protections

85, 86, 87, 89, 90, 91, 92, 93, 1, 2, 3, 94, 95, 96, 98, 127, 128, 140, 141, 199

Notes on amendments in this group

Amendment 85 pre-empts amendments 86 and 87 in this group and amendment 88 in group “Legislative competence and meaning of “exit day””

Amendment 91 pre-empts amendment 92

Amendment 93 pre-empts amendments 1, 2, 3, 94, 95 and 96 in this group and amendment 97 in group “Legislative competence and meaning of “exit day””

EU environmental and animal welfare principles: standing in Scots law

4, 5, 6, 20, 21

Principle of supremacy of EU law

99, 100, 101, 102, 103

Challenges to validity of retained (devolved) EU law

107, 108, 109

Rule in *Francovich*

7

Interpretation of retained (devolved) EU law: status of decisions of the European Court after exit day

8, 110, 111

Notes on amendments in this group

Amendment 8 pre-empts amendments 110 and 111

Grounds for exercise of various regulation-making powers

115, 116, 117, 118, 119, 9, 124, 10, 11, 12, 13, 14, 15, 16, 134, 135, 136, 137, 138, 22, 206, 212

Notes on amendments in this group

Amendment 119 pre-empts amendment 9

Amendment 124 pre-empts amendment 10

Amendment 134 pre-empts amendments 135, 136, 137, 138 and 22

Amendment 138 pre-empts amendment 22

Exercise of powers under sections 11 and 13: integration with UK Government policy

120, 121, 122, 123, 148, 150, 151, 152, 153, 154

Sections 11, 12 and 13 powers: detailed scope of powers

125, 17, 126, 18, 19, 129, 130, 131, 139, 23, 142, 144, 145, 160, 24, 25, 26

Notes on amendments in this group

Amendment 129 pre-empts amendments 130 and 131

Amendment 144 pre-empts amendment 145

Availability of power to make provision corresponding to EU law after exit day

149, 155, 156, 157, 158, 159, 27, 164, 165, 28, 29, 30, 166, 167, 168, 169, 170, 31, 171, 172, 173, 32, 33, 34, 35, 36, 37, 38, 40, 42, 48, 52, 54

Notes on amendments in this group

Amendments 164, 165, 28 and 29 are direct alternatives

Amendment 30 pre-empts amendments 166, 167, 168, 169, 170, 31, 171, 172, 173 and 32

Amendment 166 pre-empts amendments 167, 168, 169, 170, 31, 171, 172, 173 and 32

Amendment 167 pre-empts amendments 168, 169, 170, 31, 171, 172, 173 and 32

Amendments 168, 169, 170 and 31 are direct alternatives

Amendments 171, 172, 173 and 32 are direct alternatives

Amendment 36 pre-empts amendment 37

Amendment 40 is pre-empted by amendments 39 and 178 in group “Exercise of section 11, 12 and 13 powers: affirmative and enhanced procedures”

Additional scrutiny of procedure to apply to regulations under sections 11, 12 and 13

174, 187

Exercise of section 11, 12 and 13 powers: affirmative and enhanced procedures

175, 176, 39, 177, 178, 41, 179, 180, 43, 181, 182, 183, 184, 44, 185, 188, 45, 189, 190, 191, 46, 47, 192, 53

Notes on amendments in this group

Amendment 39 pre-empts amendments 177, 178 and 41 in this group and amendment 40 in group “Availability of power to make provision corresponding to EU law after exit day”

Amendment 178 pre-empts amendment 40 in group “Availability of power to make provision corresponding to EU law after exit day”

Amendment 179 pre-empts amendment 180

Amendment 188 pre-empts amendments 45 and 189

Amendment 45 pre-empts amendment 189

Amendment 191 pre-empts amendments 46 and 47

Section 11 power: quarterly reports on use of power

186

Exercise of section 11, 12 and 13 powers: explanatory statements

193, 194, 195, 49, 50, 51, 196

Consent to certain UK instruments

197, 198

Notes on amendments in this group

Amendment 197 pre-empts amendment 198

Fiscal framework and financial accountability

200, 202

Scrutiny of regulations in urgent cases

56, 57, 207, 208, 209, 210, 211, 213

Review and repeal of Act

227, 228

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Legislative competence and meaning of “exit day”

Liam Kerr

58 In section 1, page 1, line 7, leave out <prospective>

Murdo Fraser

59 In section 1, page 1, line 11, at end insert—

<() A decision by the Supreme Court that any or all provision of this Act is outside the legislative competence of the Scottish Parliament must be complied with.>

Liam Kerr

60 In section 1, page 1, line 12, leave out <it, would, if it were in effect before the relevant time, be> and insert <it is>

Alexander Burnett of Leys

61 In section 1, page 1, line 13, leave out <the relevant time> and insert <exit day>

Alexander Burnett of Leys

62 In section 1, page 1, line 14, leave out <the relevant time> and insert <exit day>

Alexander Burnett of Leys

63 In section 1, page 1, line 15, leave out subsection (3)

Murdo Fraser

64 In section 1, page 1, line 16, leave out from first <the> to end of line 18 and insert <29 March 2019 at 11 pm or any other date as may be provided for by a Minister of the Crown under the European Union (Withdrawal) Act 2018.>

Liam Kerr

65 In section 1, page 1, line 21, leave out from <(or> to <Parliament)> in line 22

Gordon Lindhurst

66 In section 1, page 1, line 23, leave out <in the Scotland Act 1998 (see section 126(9) of that Act)> and insert <defined in section 126(9) of the Scotland Act 1998>

Gordon Lindhurst

67 In section 1, page 1, line 24, at end insert—

<() This Act is to be read and given effect subject to the Scotland Act 1998.>

Adam Tomkins

68 Leave out section 1

THIS IS NOT THE MARSHALLED LIST

Gordon Lindhurst

72 In section 3, page 2, line 21, at beginning insert <Subject to the Scotland Act 1998,>

Jamie Greene

73 In section 3, page 3, line 1, after <if> insert <, and only if,>

Gordon Lindhurst

74 In section 3, page 3, line 3, after second <Parliament> insert <as provided for by the Scotland Act 1998>

Jackson Carlaw

78 In section 4, page 3, line 19, leave out <Any> and insert <Subject to the Scotland Act 1998, any>

Jackson Carlaw

80 In section 4, page 3, line 29, at end insert <, so long as the provision relates to matters devolved to the Scottish Parliament under the Scotland Act 1998.>

Jackson Carlaw

82 In section 4, page 3, line 42, at end insert <, as set out in the Scotland Act 1998>

Donald Cameron

88 In section 5, page 4, line 6, after <applies> insert—

<() are within the legislative competence of the Scottish Parliament and the Scottish Ministers as set out in the Scotland Act 1998.>

Donald Cameron

97 In section 5, page 4, line 28, at end insert <where the power to legislate on those principles is within the legislative competence of the Scottish Parliament and the Scottish Ministers, as set out in the Scotland Act 1998,>

Maurice Golden

104 In section 6, page 5, line 10, after second <Parliament> insert <as provided for in the Scotland Act 1998>

Maurice Golden

105 In section 7, page 5, line 17, after <Ministers> insert <where the regulations are—

- (i) within the legislative competence of the Scottish Parliament, and
- (ii) exercisable by the Scottish Ministers within devolved competence,

in accordance with the Scotland Act 1998.>

Jackson Carlaw

112 In section 10, page 6, line 39, at end insert <, as provided for in the Scotland Act 1998.>

THIS IS NOT THE MARSHALLED LIST

Jackson Carlaw

- 114** In section 10, page 6, line 40, at end insert <, subject to the provisions of the Scotland Act 1998 in respect of devolved and reserved matters,>

Donald Cameron

- 143** In section 12, page 10, line 18, at end insert—
<() make provision in relation to matters that are reserved under schedule 5 of the Scotland Act 1998.>

Donald Cameron

- 161** In section 13, page 11, line 25, at end insert <, subject to the restrictions and limitations of the Scotland Act 1998 on making provision in relation to devolved and reserved matters.>

Donald Cameron

- 162** In section 13, page 12, line 11, at end insert—
<() make provision in relation to matters that are reserved under schedule 5 of the Scotland Act 1998.

Donald Cameron

- 163** In section 13, page 12, line 11, at end insert—
<() make provision in relation to matters not devolved to the Scottish Parliament under the Scotland Act 1998.>

Alexander Burnett of Leys

- 203** In section 27, page 20, line 22, at end insert—
<“exit day” has the same meaning as in section 14 of the European Union (Withdrawal) Act 2018,>

Jamie Greene

- 204** In section 28, page 21, line 35, leave out subsection (1)

Neil Findlay

- 55** In section 28, page 21, line 35, leave out from <such> to second <day> in line 39 and insert <the day that the United Kingdom leaves the EU.
(3) Where the United Kingdom leaves the EU at a specific time on exit day>

Donald Cameron

Supported by: Alexander Burnett of Leys

- 205** Leave out section 28

Adam Tomkins

- 214** Leave out section 33

Adam Tomkins

- 215** In schedule 1, page 25, line 11, leave out paragraph 4

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

216 In schedule 1, page 25, line 13, leave out paragraph 5

Adam Tomkins

217 In schedule 1, page 25, line 17, leave out paragraph 7

Adam Tomkins

218 In schedule 1, page 25, line 20, leave out paragraph 8

Adam Tomkins

219 In schedule 1, page 25, line 26, leave out paragraph 9

Adam Tomkins

220 In schedule 1, page 25, line 33, leave out paragraph 11

Adam Tomkins

221 In schedule 1, page 25, line 36, leave out paragraph 12

Adam Tomkins

222 In schedule 1, page 25, line 37, leave out paragraph 13

Adam Tomkins

223 In schedule 1, page 26, line 3, leave out paragraph 14

Adam Tomkins

224 In schedule 1, page 26, line 4, leave out paragraph 15

Adam Tomkins

225 In schedule 1, page 26, line 7, leave out paragraph 16

Alexander Burnett of Leys

229 In section 37, page 24, line 28, at end insert—

<(1A) The Scottish Ministers must by regulations repeal any provision of this Act which is incompatible with—

(a) the European Union (Withdrawal) Act 2018, or

(b) the Scotland Act 1998.>

Alexander Burnett of Leys

230 In section 37, page 24, line 29, leave out <subsection (1)> and insert <subsections (1) and (1A)>

Jamie Greene

231 In section 37, page 24, line 29, at end insert—

<() This Act or provisions of this Act must be repealed if deemed to be unlawful by a relevant court.>

THIS IS NOT THE MARSHALLED LIST

Saving and incorporation of existing EU law: miscellaneous

Neil Bibby

Supported by: James Kelly

- 69 In section 2, page 2, line 10, after <passed> insert <and commenced>

Neil Bibby

Supported by: James Kelly

- 70 In section 2, page 2, line 15, at end insert—

- <() For the purposes of this section, any devolved EU-derived domestic legislation is operative immediately before exit day if—
- (a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and it applies immediately before exit day,
 - (b) in any other case, it has been commenced and is in force immediately before exit day.>

Alexander Burnett of Leys

- 75 In section 3, page 3, line 9, after <notified> insert <in writing>

Neil Bibby

Supported by: James Kelly

- 79 In section 4, page 3, line 24, after <continue> insert <, subject to section 7,>

Liam Kerr

- 81 In section 4, page 3, line 34, leave out from <any> to <jurisdiction> in line 35 and insert <a court or tribunal administered by the Scottish Courts and Tribunals Service>

Liam Kerr

- 83 In section 4, page 3, line 42, at end insert—

- <() This section has no effect unless and until the Scottish Ministers identify, and publish a list of, the rights, powers, liabilities, obligations, restrictions, remedies and procedures referred to in subsection (1).>

Act to be subject to European Union (Withdrawal) Bill

Adam Tomkins

- 71 In section 2, page 2, line 19, leave out <sections 6 to 9> and insert <the European Union (Withdrawal) Act 2018>

Jackson Carlaw

- 76 In section 3, page 3, line 16, at end insert—

- <() Subsection (5) no longer applies where an Act of the UK Parliament provides for an alternative method for addressing the matters addressed in that subsection.>

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

- 77** In section 3, page 3, line 17, leave out <sections 6 to 9> and insert <the European Union (Withdrawal) Act 2018 and any regulations made under it>

Adam Tomkins

- 84** In section 4, page 4, line 1, leave out <sections 6 to 9> and insert <the European Union (Withdrawal) Act 2018>

Adam Tomkins

- 106** In section 7, page 5, line 24, at end insert—
<() This section is to be read and given effect subject to the European Union (Withdrawal) Act 2018 and any regulations made under it.>

Graham Simpson

- 113** In section 10, page 6, line 39, at end insert—
<() This section is subject to—
(a) the provisions of the European Union (Withdrawal) Act 2018, and
(b) any withdrawal agreements, transition agreements or other agreements that are entered into between the UK Government and EU Institutions.>

Adam Tomkins

- 132** In section 11, page 9, line 33, at end insert—
<() This section is to be read and given effect subject to the European Union (Withdrawal) Act 2018.>

Adam Tomkins

- 133** In section 11, page 9, line 33, at end insert—
<() Regulations made under this section are to be read and given effect subject to the European Union (Withdrawal) Act 2018 and to any regulations made under it.>

Adam Tomkins

- 146** In section 12, page 10, line 27, at end insert—
<() This section is to be read and given effect subject to the European Union (Withdrawal) Act 2018.>

Adam Tomkins

- 147** In section 12, page 10, line 27, at end insert—
<() Regulations made under this section are to be read and given effect subject to the European Union (Withdrawal) Act 2018 and to any regulations made under it.>

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

201 In section 19, page 16, line 15, at end insert—

<() This section and regulations made under this section are to be read and given effect subject to the European Union (Withdrawal) Act 2018 and to any regulations made under it.>

Adam Tomkins

226 Before section 35, insert—

<Effect of Act

This Act and any regulations made under it are to be read and given effect subject to the European Union (Withdrawal) Act 2018 and any regulations made under that Act.>

Standing in Scots law of general principles of EU law, Charter of Fundamental Rights and other rights and protections

Adam Tomkins

85 In section 5, page 4, line 3, leave out subsection (1) and insert—

<() No general principle of EU law is part of Scots law on or after exit day if it was not recognised as a general principle of EU law by the European Court in a case decided before exit day.>

Jackson Carlaw

86 In section 5, page 4, line 3, after <law> insert <, which are defined as subsidiarity, equality before the law, proportionality and legal certainty,>

Liam Kerr

87 In section 5, page 4, leave out line 6

Adam Tomkins

89 In section 5, page 4, leave out lines 8 to 12 and insert—

<() there is no right of action in Scots law on or after exit day based on a failure to comply with any of the general principles of EU law, and>

Dean Lockhart

90 In section 5, page 4, line 12, at end insert—

<() to the extent that there is a defence available in Scots law immediately before exit day on a failure to comply with any of the general principles of EU law or the Charter, there is, on and after exit day, an equivalent defence based on a failure to comply with any of the retained (devolved) general principles of EU law or the retained (devolved) Charter, and>

Adam Tomkins

91 In section 5, page 4, leave out lines 13 to 20 and insert—

<() no court or tribunal or other public authority may, on or after exit day—

THIS IS NOT THE MARSHALLED LIST

- (i) disapply or quash any enactment or other rule of law, or
- (ii) quash any conduct or otherwise decide that it is unlawful because it is incompatible with any of the general principles of EU law.>

Jamie Greene

- 92 In section 5, page 4, line 15, leave out from second <or> to end of line 16

Adam Tomkins

- 93 In section 5, page 4, line 21, leave out subsections (3) to (5)

Claudia Beamish

- 1 In section 5, page 4, line 21, leave out subsection (3) and insert—

<(3A) Subsection (1) applies in relation to a general principle of EU law if it was recognised as a general principle of EU law —

- (a) by the European Court in a case decided before exit day (whether or not as an essential part of the decision in the case),
- (b) in the EU Treaties immediately before exit day,
- (c) by any direct EU legislation (as defined in section 3(2)) operative immediately before exit day, or
- (d) by an EU directive that was in force immediately before exit day.>

Claudia Beamish

- 2 In section 5, page 4, line 23, at end insert—

<() Without prejudice to the generality of subsection (3A), the principles set out in Article 191 of the Treaty on the Functioning of the European Union are to be considered to be general principles for the purposes of that subsection.>

Colin Smyth

- 3 In section 5, page 4, line 23, at end insert—

<() Without prejudice to the generality of subsection (3A), the principle set out in Article 13 of the Treaty on the Functioning of the European Union is to be considered to be one of the general principles for the purposes of that subsection.>

Graham Simpson

- 94 In section 5, page 4, line 23, at end insert—

<() Subsection (2) does not apply to cases raised on or after exit day.>

Jamie Greene

- 95 In section 5, page 4, line 23, at end insert—

<() The Scottish Ministers must within 6 months of the day of Royal Assent make a statement setting out the general principles of EU law that they consider are part of Scots law by virtue of subsection (1).>

THIS IS NOT THE MARSHALLED LIST

Donald Cameron

- 96 In section 5, page 4, line 25, after <law"> insert <, which include, without prejudice to the foregoing generality, the principles of proportionality, subsidiarity, legal certainty and equality before the law,>

Adam Tomkins

- 98 After section 5, insert—

<Charter of Fundamental Rights

The Charter of Fundamental Rights continues to have the same legal authority in Scots law on and after exit day as it had on the day before exit day.>

Patrick Harvie

- 127 In section 11, page 9, line 8, at end insert—

- <() remove or reduce any protection currently conferred on individuals, groups or the natural environment,
- () prevent any person from continuing to exercise a right that the person can currently exercise,>

Neil Bibby

Supported by: James Kelly

- 128 In section 11, page 9, line 8, at end insert—

- <() remove or weaken any right or protection arising from devolved retained EU law so far as it relates to—
 - (i) entitlement to employment, and associated rights or protections,
 - (ii) entitlement to equality, and associated rights or protections,
 - (iii) rights or protections related to health and safety,
 - (iv) consumer standards,
 - (v) environmental standards or protections,>

Patrick Harvie

- 140 In section 12, page 10, line 6, at end insert—

- <() remove or reduce any protection currently conferred on individuals, groups or the natural environment,
- () prevent any person from continuing to exercise a right that the person can currently exercise,>

Neil Bibby

Supported by: James Kelly

- 141 In section 12, page 10, line 6, at end insert—

- <() remove or weaken any right or protection arising from devolved retained EU law so far as it relates to—
 - (i) entitlement to employment, and associated rights or protections,
 - (ii) entitlement to equality, and associated rights or protections,

THIS IS NOT THE MARSHALLED LIST

- (iii) rights or protections related to health and safety,
- (iv) consumer standards,
- (v) environmental standards or protections,>

Neil Bibby

Supported by: James Kelly

199 After section 17, insert—

<PART

PROTECTION OF RIGHTS ARISING FROM DEVOLVED RETAINED EU LAW

Regulations not to be used to remove or weaken protections

The Scottish Ministers must not, by regulations under any power they may have under an Act of the Scottish Parliament or an Act of Parliament, make any provision that would have the effect of removing or weakening any right or protection arising from devolved retained EU law so far as it relates to—

- (a) entitlement to employment, and associated rights or protections,
- (b) entitlement to equality, and associated rights or protections,
- (c) rights or protections related to health and safety,
- (d) consumer standards,
- (e) environmental standards or protections.>

EU environmental and animal welfare principles: standing in Scots law

Tavish Scott

4 After section 5, insert—

<Maintenance of EU environmental principles

- (1) In carrying out its duties and functions, a Scottish public authority must have regard to the environmental principles set out in subsection (2),
- (2) For the purposes of this section, the environmental principles are the principles set out in Articles 13 and 191 of the Treaty on the Functioning of the European Union and, including—
 - (a) the precautionary principle as it relates to the environment,
 - (b) that preventive action should be taken to avert environmental damage,
 - (c) that environmental damage should as a priority be rectified at source,
 - (d) that the polluter should pay,
 - (e) that environmental protection requirements must be integrated into the definition and implementation of policies and activities, with a view to promoting sustainable development,
 - (f) that regard must be had to the welfare requirements of animals as sentient beings.

THIS IS NOT THE MARSHALLED LIST

- (3) In carrying out its duties and functions on or after exit day, a Scottish public authority must (so far as it would in relation to EU law immediately before exit day) have regard to the public interest in—
 - (a) promoting sustainable development,
 - (b) preserving, protecting and improving the environment,
 - (c) the prudent and rational utilisation of natural resources,
 - (d) guaranteeing participation rights including—
 - (i) access to environmental information,
 - (ii) public participation in environmental decision making, and
 - (iii) access to justice in relation to environmental matters, and
 - (e) the public authority acting in a way that takes account of available scientific and technical data.
- (4) In carrying out its duties and functions in relation to environmental protection on or after exit day, a Scottish public authority must (so far as it would in relation to EU law immediately before exit day) have regard to—
 - (a) the principle of preserving, protecting and improving the environment, and
 - (b) the most up to date scientific and technical data.
- (5) A court or tribunal may determine whether any decision made by a Scottish public authority is compatible with subsections (2), (3) or (4).>

Mark Ruskell

5 After section 5, insert—

<EU Protocol on animal welfare

Without prejudice to the generality of section 5(1), obligations and rights arising from Article 13 of the Treaty on the Functioning of the European Union (acceptance that animals are sentient beings and requirement to have full regard to their welfare) must be recognised and available in Scots law (so far as within devolved legislative competence) upon and after exit day, and must be enforced and followed accordingly.>

Mark Ruskell

6 After section 5, insert—

<Retention of environmental principles of EU law

- (1) On and after exit day the environmental principles of EU law become principles of Scots law in accordance with this section.
- (2) Without prejudice to the generality of section 5(1), the environmental principles of EU law are—
 - (a) the principle set out in Article 11 of the Treaty on the Functioning of the European Union that environmental protection requirements must be integrated into the definition and implementation of policies and activities, with a view to promoting sustainable development, and

THIS IS NOT THE MARSHALLED LIST

- (b) the principles set out in Article 191 of the Treaty on the Functioning of the European Union on which Union policy on the environment is to be based (the precautionary principle, and the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay).
- (3) A court or tribunal interpreting or applying an enactment must, so far as it is possible to do so, construe or apply the enactment in a manner that is compatible with the environmental principles of EU law (as defined in subsection (2)).
- (4) A public authority must, in exercising its functions, have regard to the environmental principles of EU law (as defined in subsection (2)).>

Mark Ruskell

20 After section 11, insert—

<Continuation of environmental powers and functions

- (1) No later than two months after Royal Assent, the Scottish Ministers must—
 - (a) publish and lay before the Scottish Parliament a report identifying those powers and functions listed in the public register established under subsection (2) that it expects—
 - (i) will continue to be exercised in Scotland or on behalf of the Scottish Ministers by EU entities or public authorities,
 - (ii) will be transferred to existing or new Scottish public authorities,
 - (iii) will be exercised in Scotland or on behalf of the Scottish Ministers by a UK public authority,
 - (iv) will be exercised in Scotland or on behalf of the Scottish Ministers by an appropriate international entity or public authority,
 - (b) by regulations make provision that ensures that all relevant powers and functions relating to environmental protection or improvement exercisable by EU institutions in Scotland or on behalf of the Scottish Ministers before exit day continue to have effect on and after exit day.
- (2) The Scottish Ministers must establish and maintain a public register of all relevant powers and functions relating to environmental protection or improvement exercisable by EU institutions before exit day.
- (3) The public register established under subsection (2) must specify—
 - (a) the relevant powers and functions,
 - (b) the institution previously responsible for exercising those powers and functions,
 - (c) the provisions in EU law which provide those powers and functions,
 - (d) how the Scottish Ministers will monitor and measure compliance with those provisions following exit day,
 - (e) how the Scottish Ministers will review and report on compliance with those provisions following exit day,
 - (f) how the Scottish Ministers will enforce compliance with those provisions following exit day,

THIS IS NOT THE MARSHALLED LIST

- (4) The public register established under subsection (2) may contain such other information relating to environmental protection or improvement exercisable by EU institutions before exit day that the Scottish Ministers consider to be relevant.>

Mark Ruskell

21 After section 11, insert—

<Dealing with deficiencies in environmental governance: consultation

- (1) No later than two months after Royal Assent, the Scottish Ministers must consult about any deficiencies in environmental governance arising from UK withdrawal from the European Union.
- (2) Following a consultation under subsection (1), the Scottish Ministers must have regard to any representations about any deficiencies in environmental governance.
- (3) For the purposes of this section, “environmental governance” means the functions carried out before exit day by the EU Commission, European Court and any other EU bodies as the Scottish Ministers may determine in ensuring compliance with environmental law and principles.>

Principle of supremacy of EU law

Liam Kerr

99 In section 6, page 4, line 37, leave out <devolved enactment or rule of law> and insert <law made by the Scottish Parliament>

Liam Kerr

100 In section 6, page 4, line 38, leave out <passed or made> and insert <enacted>

Donald Cameron

101 In section 6, page 4, line 38, at end insert—

<() For the avoidance of doubt, subsection (1) is only a declaratory provision.>

Liam Kerr

102 In section 6, page 5, line 3, leave out <devolved enactment or rule of law> and insert <law made by the Scottish Parliament>

Liam Kerr

103 In section 6, page 5, line 3, leave out <passed or made> and insert <enacted>

Challenges to validity of retained (devolved) EU law

Maurice Golden

107 In section 7, page 5, line 24, at end insert—

<() As soon as practicably possible after the end of each quarter of the year the Scottish Ministers are to—

THIS IS NOT THE MARSHALLED LIST

- (a) lay before the Scottish Parliament, and
 - (b) make publicly available by such means as they consider appropriate,
- a report on the number of challenges made to the validity of retained (devolved) EU law under this section.>

Michael Russell

108 After section 9, insert—

<Scrutiny of regulations under section 7(2)(b)>

- (1) The Scottish Ministers must not lay before the Scottish Parliament for approval a draft of a Scottish statutory instrument containing regulations under section 7(2)(b) unless they have consulted in accordance with section (*Consultation on draft proposals under section 7(2)(b)*).
- (2) Where they do lay a draft of such an instrument before the Parliament for approval, they must do so at least 60 days before the date on which the regulations are expected to come into force.
- (3) In calculating any period of 60 days for the purposes of subsection (2), no account is to be taken of any time during which the Scottish Parliament is—
 - (a) dissolved, or
 - (b) in recess for more than 4 days.
- (4) Failure to comply with subsection (2) in relation to a draft Scottish statutory instrument does not prevent the regulations contained in the draft instrument from being approved and made.
- (5) Where a draft Scottish statutory instrument to which subsection (2) applies is laid before the Scottish Parliament but not in accordance with that subsection the Scottish Ministers must explain to the Presiding Officer why that subsection has not been complied with.
- (6) The explanation is to be given as soon as practicable after the draft instrument is laid before the Parliament.>

Michael Russell

109 After section 9, insert—

<Consultation on draft proposals under section 7(2)(b)>

- (1) If the Scottish Ministers propose to make regulations under section 7(2)(b) they must consult about their proposals such persons as they consider appropriate.
- (2) For the purposes of a consultation under subsection (1), the Scottish Ministers must—
 - (a) lay before the Scottish Parliament a document setting out their proposals,
 - (b) send a copy of the document to any person to be consulted under subsection (1), and
 - (c) have regard to any representations about the proposals that are made to them.>

THIS IS NOT THE MARSHALLED LIST

Rule in Francovich

Tavish Scott

Supported by: Mary Fee

7 Leave out section 8 and insert—

<8 **Rule in *Francovich***

The right in Scots law to damages in accordance with the rule in *Francovich* continues on and after exit day.>

Interpretation of retained (devolved) EU law: status of decisions of the European Court after exit day

Tavish Scott

8 In section 10, page 6, line 7, leave out subsection (2) and insert—

<(2) A court or tribunal exercising devolved jurisdiction must, where it considers it relevant for the proper interpretation of retained EU law, have regard to judgments given or decisions made by the European Court on or after exit day.

(2A) In determining the significance of any judgment or decision considered under subsection (2), the court or tribunal must have regard to the terms of any agreement between the United Kingdom and the EU which it considers relevant.

(2B) A court or tribunal may determine that any judgment or decision to which regard was had under subsection (2A) has no significance in relation to its proceedings.>

Adam Tomkins

110 In section 10, page 6, line 7, leave out <may> and insert <need not>

Adam Tomkins

111 In section 10, page 6, line 8, after second <EU> insert <but may do so if it considers it appropriate to do so>

Grounds for exercise of various regulation-making powers

Dean Lockhart

115 In section 11, page 7, line 25, at end insert—

<() The Scottish Ministers must by regulations subject to the affirmative procedure define what, for the purposes of this Act, constitutes a failure of retained (devolved) EU law to operate effectively.>

Neil Bibby

Supported by: James Kelly

116 In section 11, page 7, line 26, leave out <the Scottish Ministers consider>

THIS IS NOT THE MARSHALLED LIST

Neil Bibby

Supported by: James Kelly

117 In section 11, page 7, line 27, leave out <that>

Neil Bibby

Supported by: James Kelly

118 In section 11, page 7, line 31, leave out <that>

Neil Bibby

Supported by: James Kelly

119 In section 11, page 7, line 33, leave out <they may by regulations make such provision as they consider appropriate> and insert <the Scottish Ministers may by regulations make provision necessary>

Neil Findlay

Supported by: Dean Lockhart

9 In section 11, page 7, line 33, leave out <they consider appropriate> and insert <is necessary>

Neil Bibby

Supported by: James Kelly

124 In section 11, page 7, line 35, leave out <the Scottish Ministers consider that>

Tavish Scott

10 In section 11, page 7, line 35, after <Ministers> insert <have reasonable grounds to>

Tavish Scott

Supported by: Neil Findlay

11 In section 11, page 8, line 8, leave out <appropriate> and insert <necessary>

Tavish Scott

Supported by: Neil Findlay

12 In section 11, page 8, line 14, leave out <appropriate> and insert <necessary>

Tavish Scott

Supported by: Neil Findlay

13 In section 11, page 8, line 17, leave out <appropriate> and insert <necessary>

Neil Findlay

Supported by: Dean Lockhart

14 In section 11, page 8, line 22, leave out <appropriate> and insert <necessary>

Tavish Scott

Supported by: Neil Findlay

15 In section 11, page 8, line 23, leave out <appropriate> and insert <necessary>

Tavish Scott

16 In section 11, page 8, line 24, after <Ministers> insert <have reasonable grounds to>

THIS IS NOT THE MARSHALLED LIST

Jamie Greene

- 134 In section 12, page 9, line 35, leave out subsection (1) and insert—
<() Where there has been an identified breach of the international obligations of the United Kingdom arising from the withdrawal of the United Kingdom for the EU, as decided by the relevant court appropriate to the treaty, the Scottish Ministers may make such provision as they consider appropriate for that purpose.>

Neil Bibby

Supported by: James Kelly

- 135 In section 12, page 9, line 35, leave out <the Scottish Ministers consider>

Neil Bibby

Supported by: James Kelly

- 136 In section 12, page 9, line 36, leave out <that>

Neil Bibby

Supported by: James Kelly

- 137 In section 12, page 9, line 38, leave out <that>

Neil Bibby

Supported by: James Kelly

- 138 In section 12, page 9, line 40, leave out <they may by regulations make such provision as they consider appropriate> and insert <the Scottish Ministers may by regulations make provision necessary>

Neil Findlay

Supported by: Dean Lockhart

- 22 In section 12, page 9, line 40, leave out <they consider appropriate> and insert <is necessary>

Liam Kerr

- 206 In section 30, page 23, line 2, leave out <appropriate> and insert <necessary>

Liam Kerr

- 212 In section 32, page 23, line 28, leave out <appropriate> and insert <necessary>

Exercise of powers under sections 11 and 13: integration with UK Government policy

Adam Tomkins

- 120 In section 11, page 7, line 34, at end insert—
<(1A) No regulations may be made under subsection (1), where those regulations relate to a protected field, without the consent of a Minister of the Crown.>

Adam Tomkins

- 121 In section 11, page 7, line 34, at end insert—
<(1B) For the purposes of subsection (1A), the protected fields are—

THIS IS NOT THE MARSHALLED LIST

- (a) agriculture,
- (b) environmental protection,
- (c) fisheries,
- (d) public procurement, and
- (e) state aid.>

Adam Tomkins

122 In section 11, page 7, line 34, at end insert—

- <() A Minister of the Crown may not withhold consent required by subsection (1A) where—
- (a) a United Kingdom common framework has been agreed between the devolved administrations and the United Kingdom Government, and
 - (b) the Scottish Ministers are proposing to act in a way that is compatible with that framework.>

Adam Tomkins

123 In section 11, page 7, line 34, at end insert—

- <() The Scottish Ministers may, by regulations subject to the negative procedure, add further protected fields to subsection (1B).>

Jamie Greene

148 In section 13, page 10, line 29, after <provision> insert <, insofar that these regulations are not in direct contradiction to the UK Government policy or the negotiating lines of the UK Government in their negotiations in the withdrawal from the European Union>

Adam Tomkins

150 In section 13, page 10, line 36, at end insert—

- <(1A) No regulations may be made under subsection (1), where those regulations relate to a protected field, without the consent of a Minister of the Crown.>

Adam Tomkins

151 In section 13, page 10, line 36, at end insert—

- <(1B) For the purposes of subsection (1A), the protected fields are—
- (a) agriculture,
 - (b) environmental protection,
 - (c) fisheries,
 - (d) public procurement, and
 - (e) state aid.>

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

152 In section 13, page 10, line 36, at end insert—

<() A Minister of the Crown may not withhold consent required by subsection (1A) where—

(a) a United Kingdom common framework has been agreed between the devolved administrations and the United Kingdom Government, and

(b) the Scottish Ministers are proposing to act in a way that is compatible with that framework.>

Adam Tomkins

153 In section 13, page 10, line 36, at end insert—

<() The Scottish Ministers may, by regulations subject to the negative procedure, add further protected fields to subsection (1B).>

Jamie Greene

154 In section 13, page 10, line 37, after <may,> insert <insofar that these regulations are not in direct contradiction to the UK Government policy or the negotiating lines of the UK Government in their negotiations in the withdrawal from the European Union,>

Sections 11, 12 and 13 powers: detailed scope of powers

Dean Lockhart

125 In section 11, page 8, line 33, leave out <make any provision that could> and insert <not make any provision that would otherwise require to be>

Tavish Scott

17 In section 11, page 9, leave out lines 1 and 2

Jamie Greene

126 In section 11, page 9, line 2, at end insert—

<(ba) provide for the amendment of the general object and purposes of a Scottish public authority to enable it to carry out functions provided for by regulations under subsection (1).>

Tavish Scott

18 In section 11, page 9, line 8, leave out <relevant>

Tavish Scott

19 In section 11, page 9, line 8, at end insert—

<() increase burdens on individuals or businesses,>

Graham Simpson

129 In section 11, page 9, line 21, leave out subsection (9)

THIS IS NOT THE MARSHALLED LIST

Liam Kerr

- 130 In section 11, page 9, line 23, leave out <broadly>

Dean Lockhart

- 131 In section 11, page 9, line 23, after <modified> insert <and confers a level of protection in law no less than the protection being removed and the provision being modified>

Dean Lockhart

- 139 In section 12, page 10, line 1, leave out <make any provision that could> and insert <not make any provision that would otherwise require to be>

Tavish Scott

- 23 In section 12, page 10, line 6, leave out <relevant>

Jamie Greene

- 142 In section 12, page 10, leave out line 14

Murdo Fraser

- 144 In section 12, page 10, line 19, leave out subsection (4)

Gordon Lindhurst

- 145 In section 12, page 10, line 21, leave out <broadly>

Dean Lockhart

- 160 In section 13, page 11, line 24, leave out <make any provision that could> and insert <not make any provision that would otherwise require to be>

Tavish Scott

- 24 In section 13, page 11, leave out lines 33 and 34

Tavish Scott

- 25 In section 13, page 11, line 38, leave out <relevant>

Tavish Scott

- 26 In section 13, page 11, line 38, at end insert—
<() provide for the establishment of a Scottish public authority,>

Availability of power to make provision corresponding to EU law after exit day

Donald Cameron

- 149 In section 13, page 10, line 36, at end insert <and subject to—
() the restrictions and limitations of the Scotland Act 1998 on making provision on devolved and reserved matters, and
() the Scottish Parliament giving its consent.>

THIS IS NOT THE MARSHALLED LIST

Graham Simpson

155 In section 13, page 11, line 8, leave out <appropriate> and insert <operable>

Graham Simpson

156 In section 13, page 11, line 14, leave out <appropriate> and insert <operable>

Graham Simpson

157 In section 13, page 11, line 17, leave out <appropriate> and insert <operable>

Graham Simpson

158 In section 13, page 11, line 22, leave out <appropriate> and insert <necessary>

Graham Simpson

159 In section 13, page 11, line 23, leave out <appropriate> and insert <operable>

Tavish Scott

27 In section 13, page 12, line 14, at end insert—

<(6A) No regulations may be made under subsection (1) where, following consultation under section 15, all of the persons mentioned in subsection (6B) have informed the Scottish Ministers in writing that they do not agree to the regulations being made.

(6B) The persons are—

- (a) the Secretary of State,
- (b) the Welsh Ministers,
- (c) a Northern Ireland department.>

Murdo Fraser

164 In section 13, page 12, line 15, leave out <5> and insert <4>

Murdo Fraser

165 In section 13, page 12, line 15, leave out <5> and insert <3>

James Kelly

Supported by: Murdo Fraser

28 In section 13, page 12, line 15, leave out <5> and insert <2>

Tavish Scott

Supported by: Murdo Fraser

29 In section 13, page 12, line 15, leave out <5 years> and insert <one year>

James Kelly

30 In section 13, page 12, line 17, leave out subsection (8)

Michael Russell

166 In section 13, page 12, line 17, leave out from <by> to end of line 20 and insert <, on more than one occasion, by regulations extend the period mentioned in subsection (7).

THIS IS NOT THE MARSHALLED LIST

- () A period of extension provided for by regulations under subsection (8) on any occasion must not exceed 5 years.>

Dean Lockhart

- 167** In section 13, page 12, line 18, leave out from <up> to end of line 20 and insert <no longer than 1 year.

- (8A) If the Scottish Ministers propose to make regulations under subsection (8), they must consult about their proposal in accordance with the requirements set out in section 15.>

Murdo Fraser

- 168** In section 13, page 12, line 18, leave out <5> and insert <4>

Murdo Fraser

- 169** In section 13, page 12, line 18, leave out <5> and insert <3>

Murdo Fraser

- 170** In section 13, page 12, line 18, leave out <5> and insert <2>

Tavish Scott

Supported by: Murdo Fraser

- 31** In section 13, page 12, line 18, leave out <5 years> and insert <one year>

Murdo Fraser

- 171** In section 13, page 12, line 20, leave out <5> and insert <4>

Murdo Fraser

- 172** In section 13, page 12, line 20, leave out <5> and insert <3>

Murdo Fraser

- 173** In section 13, page 12, line 20, leave out <5> and insert <2>

Tavish Scott

Supported by: Murdo Fraser

- 32** In section 13, page 12, line 20, leave out <5 years> and insert <one year>

Tavish Scott

- 33** In section 13, page 12, line 20, at end insert—

- <() The period during which regulations under subsection (1) may be made may not be extended by regulations under subsection (8) so as to last for more than 5 years in total.>

Tavish Scott

- 34** Leave out section 13 and insert—

<Report on proposals to make provision corresponding to EU law after exit day

- (1) The Scottish Ministers must prepare and publish a report setting out their proposals to make provision—

THIS IS NOT THE MARSHALLED LIST

- (a) corresponding to provision in an EU regulation, EU tertiary legislation or an EU decision,
 - (b) for the enforcement of provision made under paragraph (a) or otherwise to make it effective, or
 - (c) to implement an EU directive,
- so far as the EU regulation, EU tertiary legislation, EU decision or EU directive has effect in EU law after exit day.
- (2) The report must be laid before the Scottish Parliament before the end of the period of 3 months beginning with the day of Royal Assent.>

Neil Findlay

- 35** Leave out section 13

Neil Findlay

Supported by: Tavish Scott

- 36** In section 14, page 12, line 27, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

James Kelly

- 37** In section 14, page 12, line 27, leave out <11(1), 12 or 13(1) which contain provision falling within subsection (2)> and insert <11, 12 or 13>

Neil Findlay

Supported by: Tavish Scott

- 38** In section 14, page 12, line 33, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

Neil Findlay

Supported by: Tavish Scott

- 40** In section 14, page 13, line 3, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

Neil Findlay

Supported by: Tavish Scott

- 42** In section 14, page 13, line 6, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

Neil Findlay

- 48** In section 16, page 13, line 38, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

Neil Findlay

- 52** In section 19, page 16, leave out line 9

Neil Findlay

- 54** In section 22, page 17, line 10, leave out <11, 12 or 13> and insert <11 or 12>

THIS IS NOT THE MARSHALLED LIST

Additional scrutiny of procedure to apply to regulations under sections 11, 12 and 13

Ross Greer

174 In section 14, page 12, line 26, at end insert—

<() This section is subject to section (*Additional scrutiny of proposed regulations*).>

Ross Greer

187 After section 14, insert—

<Additional scrutiny of proposed regulations

- (1) This section applies where the Scottish Ministers propose to lay before the Scottish Parliament a Scottish statutory instrument containing regulations under section 11, 12 or 13 or a draft of such an instrument.
- (2) The Scottish Ministers are not to lay the instrument or draft before the Parliament unless—
 - (a) condition 1 is met, and
 - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that the Scottish Ministers have laid before the Parliament—
 - (a) a copy of the proposed instrument or draft,
 - (b) a statement setting out their opinion on the scrutiny procedure to which the proposed instrument or draft will be subject, and
 - (c) their reasons for their opinion.
- (4) Condition 2 is that such of its committees as the Parliament may determine has made a recommendation on the appropriate scrutiny procedure for the proposed instrument or draft.
- (5) A recommendation under subsection (4) may be that, regardless of the Scottish Ministers' opinion on the appropriate scrutiny procedure, the proposed instrument or draft—
 - (a) is to be subject to negative procedure,
 - (b) is to be subject to affirmative procedure,
 - (c) is to be subject to affirmative procedure and to the requirements set out in paragraphs (a) and (b) of section 14(5).
- (6) Condition 3 is that the period of 15 sitting days beginning with the first sitting day after the day on which the proposed instrument or draft was laid before the Parliament has ended without any recommendation being made in accordance with subsection (4).
- (7) Where a recommendation has been made in accordance with subsection (4), the Scottish Ministers must proceed in accordance with that recommendation.
- (8) In subsection (6), “sitting day” has the same meaning as in the Standing Orders of the Parliament.>

THIS IS NOT THE MARSHALLED LIST

Exercise of section 11, 12 and 13 powers: affirmative and enhanced procedures

Adam Tomkins

175 In section 14, page 12, line 27, leave out <which contain provision falling within subsection (2)>

Jamie Greene

176 In section 14, page 12, line 33, at end insert—

<(ba) provides for the amendment of the general object and purposes of a Scottish public authority to enable it to carry out functions provided for by regulations under section 11(1).>

James Kelly

39 In section 14, page 12, line 36, leave out from beginning to end of line 5 on page 13

Michael Russell

177 In section 14, page 12, line 36, leave out <of making an instrument of a legislative character>

Jackson Carlaw

178 In section 14, page 13, line 3, leave out subsection (3)

Tavish Scott

41 In section 14, page 13, line 5, leave out <13(8)> and insert <13>

Jackson Carlaw

179 In section 14, page 13, line 7, leave out <(2)(a), (b) or (c)> and insert <(2)>

Jamie Greene

180 In section 14, page 13, line 7, after <(b)> insert <, (ba)>

Tavish Scott

43 In section 14, page 13, line 7, at end insert <or regulations under section 13(1)>

Jamie Greene

181 In section 14, page 13, line 12, leave out <60> and insert <90>

Jamie Greene

182 In section 14, page 13, line 13, at end insert—

<() In the case of regulations under section 11(1) containing provision falling within subsection (2)(ba) the regulations must be accompanied by an indication of the financial implications of the regulations.>

Donald Cameron

183 In section 14, page 13, line 23, leave out <Presiding Officer> and insert <Scottish Parliament>

THIS IS NOT THE MARSHALLED LIST

Donald Cameron

- 184** In section 14, page 13, line 25, leave out <as soon as practicable> and insert <within 2 sitting days>

Tavish Scott

- 44** In section 14, page 13, line 26, at end insert—
<() Subsections (7) to (9) do not apply to regulations under section 13(1).>

Donald Cameron

- 185** In section 14, page 13, line 26, at end insert—
- <() Where a draft Scottish statutory instrument to which subsection 5(b) applies is laid before the Scottish Parliament on a day when the Parliament is in recess, the Scottish Ministers must explain to the Presiding Officer why it has been laid on a day when the Parliament is in recess.
 - () After the Scottish Ministers have explained to the Presiding Officer why a draft Scottish statutory instrument to which subsection 5(b) applies has been laid on a day when the Parliament is in recess, no later than two sitting days after that recess, the Scottish Ministers must explain to the Parliament why that instrument was laid on a day when the Parliament was in recess.
 - () For the purposes of this Act, “sitting day” is any day when the office of the Clerk of the Scottish Parliament is open but not when the Parliament is in recess or dissolved.>

Neil Bibby

Supported by: James Kelly

- 188** In section 15, page 13, line 30, leave out <about their proposals such persons as they consider appropriate> and insert <appropriate persons>

Tavish Scott

- 45** In section 15, page 13, line 30, leave out <such> and insert <—
- (a) the Secretary of State,
 - (b) the Welsh Ministers,
 - (c) a Northern Ireland department,
 - (d) such other>

Jamie Greene

- 189** In section 15, page 13, line 30, leave out <such> and insert <—
- (a) each relevant committee of the Scottish Parliament, and
 - (b) such other>

Jamie Greene

- 190** In section 15, page 13, line 31, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() ensure that each committee referred to in subsection (1)(a) has sufficient time to consult, and where appropriate take evidence from, persons that the committee considers are representative of a range of opinion and experience on the subject matter of the proposals, and>

Dean Lockhart

191 In section 15, page 13, line 32, leave out from <a> to end of line 35 and insert <, alongside each proposals to make regulations under section 11, 12 or 13, documentation setting out material relevant to the Parliament’s consideration of the regulations, including—

- (a) relevant legal advice received by the Scottish Ministers in relation to the proposed regulations,
- (b) an explanation of how the proposed regulations amend existing law, why such regulations are necessary and whether each such provision would make a substantial change to the effect of the law,
- (c) for proposed regulations that are considered to relate to a failure of EU law to operate effectively under section 11, an explanation of how the proposed regulations will correct any failure of retained EU law to operate effectively,
- (d) for proposed regulations considered to be a breach of the international obligations of the United Kingdom arising from the withdrawal of the United Kingdom from the EU under section 12, an explanation of how the instruments or regulations would prevent or remedy that breach.>

Tavish Scott

46 In section 15, page 13, line 32, after <out> insert <—
()>

Tavish Scott

47 In section 15, page 13, line 32, at end insert—
<() their reasons for considering that section 11(1)(b) applies,>

Jamie Greene

192 In section 15, page 13, line 35, at end insert—
<() In this section, “relevant committee” means a committee whose remit is engaged by the subject matter of the proposals.>

Tavish Scott

53 In section 21, page 16, line 38, after <provision> insert <—
(a) made under section 13(1),
(b) made under section 11(1) or 12 and>

THIS IS NOT THE MARSHALLED LIST

Section 11 power: quarterly reports on use of power

Maurice Golden

186 In section 14, page 13, line 27, at end insert—

<(10A)As soon as practicably possible after the end of each quarter of the year the Scottish Ministers are to—

- (a) lay before the Scottish Parliament, and
 - (b) make publicly available by such means as they consider appropriate,
- a report on the matters set out at subsection (10B).

(10B)The report is to contain information on—

- (a) how many deficiencies in retained (devolved) EU law have been identified,
- (b) how many regulations under section 11 are expected to be laid before the Scottish Parliament as a result, and
- (c) how many regulations under section 11 have been made.>

Exercise of section 11, 12 and 13 powers: explanatory statements

Jamie Greene

193 In section 16, page 14, line 3, leave out <in their opinion> and insert <having carried out due diligence and taken reasonable steps to confirm the findings, they confirm>

Jamie Greene

194 In section 16, page 14, line 23, leave out <details> and insert <key and notable findings>

Dean Lockhart

195 In section 16, page 14, line 24, leave out <the consultation> and insert <any consultations>

Tavish Scott

49 In section 16, page 14, line 28, at end insert—

<(6A) In the case of a draft of an instrument containing regulations under section 13(1), the statement referred to in subsection (6) must include—

- (a) an assessment of the impact of the draft instrument on the operation of the single market in goods and services within the United Kingdom,
- (b) a copy of any representations received from the persons mentioned in paragraphs (a) to (c) of section 15(1) following consultation under that section.>

Tavish Scott

50 In section 16, page 14, line 29, at beginning insert <In the case of an instrument or draft containing regulations under section 11(1) or 12,>

THIS IS NOT THE MARSHALLED LIST

Tavish Scott

51 In section 16, page 14, line 31, at end insert—

<(7A) In the case of a draft of an instrument containing regulations under section 13(1), the Scottish Ministers must not lay the draft unless it is accompanied by the statements required by subsection (2), (3), (4), (5), (6) or (6A).>

Neil Bibby

Supported by: James Kelly

196 In section 16, page 14, line 33, leave out <in such manner as the Scottish Ministers consider appropriate>

Consent to certain UK instruments

Jamie Greene

197 In section 17, page 15, line 17, leave out subsection (2)

Ross Greer

198 In section 17, page 15, line 18, after <Ministers> insert <, and
() the Scottish Parliament,>

Fiscal framework and financial accountability

Murdo Fraser

200 After section 18, insert—

<Principle of protecting fiscal framework

- (1) Where the Scottish Ministers implement any provision in this Act, they must not undermine the fiscal framework for Scotland.
- (2) For the purposes of this section—
 - (a) the “fiscal framework” means the arrangement of the Scottish Consolidated Fund, tax raising powers set out in the Scotland Acts 1998, 2012 and 2016 and borrowing limits agreed with HM Treasury at the time of Royal Assent that collectively govern the financial powers of the Scottish Ministers and the Scottish Parliament,
 - (b) “undermine” means any regulations, enactment or act by the Scottish Ministers that materially changes the fiscal framework.>

Jamie Greene

202 After section 22, insert—

<Financial Accountability and Government transparency

- (1) Before the end of the transition period, the Scottish Ministers must make a statement to the Scottish Parliament setting out—

THIS IS NOT THE MARSHALLED LIST

- (a) the total sum of any existing loan from the European Investment Bank, and
 - (b) the timescale for its repayment.
- (2) In subsection (1), the “transition period” means any period agreed between the United Kingdom and the European Union to allow for the UK’s withdrawal from the European Union.>

Scrutiny of regulations in urgent cases

Tavish Scott

- 56 In section 31, page 23, line 5, at beginning insert <Subject to subsection (1A),>

Tavish Scott

- 57 In section 31, page 23, line 9, at end insert—
<(1A) Subsection (2) does not apply to regulations under section 13(1).>

Ross Greer

- 207 In section 31, page 23, line 14, at end insert—
<() in any event, no later than the third day after they are made.>

Murdo Fraser

- 208 In section 31, page 23, line 16, leave out <28> and insert <14>

Murdo Fraser

- 209 In section 31, page 23, line 18, leave out <28> leave out <14>

Jamie Greene

- 210 In section 31, page 23, line 24, at end insert—
<(6A) For the purposes of this section, the Scottish Ministers must by regulations prescribe the meaning of “urgency”.
(6B) Regulations under subsection (6A) are subject to the affirmative procedure.>

Ross Greer

- 211 After section 31, insert—
<**Suspension of effect of section 31**
(1) The Parliament may, by resolution, determine that the application of section 31(2) to regulations mentioned in section 31(1) is to be suspended.
(2) Subsection (1) applies where the terms of the resolution specify circumstances in which section 31(2) is considered to have been applied in respect of regulations without sufficient justification.
(3) The Parliament may, by resolution, reinstate the application of section 31(2) where it is satisfied that appropriate steps have been taken to ensure that it is not applied without sufficient justification.>

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

213 In section 32, page 23, line 35, after <is> insert <not>

Review and repeal of Act

Jamie Greene

227 After section 36, insert—

<Review of this Act

The Scottish Ministers must review the Act as soon as practicable after exit day and lay before the Scottish Parliament a report on that review.>

Liam Kerr

228 In section 37, page 24, line 28, leave out <or any provision of this Act>

© Parliamentary copyright. Scottish Parliamentary Corporate Body

The Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000.

Published in Scotland by the Scottish Parliamentary Corporate Body

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk
