



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 30 June 2015

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 133 to 158 and NCs 56-60

COMMITTEE OF THE WHOLE HOUSE

SCOTLAND BILL

NOTE

This document includes all remaining amendments and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the House [8 June 2015].

CLAUSES 31 TO 37, SCHEDULE 2, CLAUSES 38 TO 45, NEW CLAUSES RELATING TO PART 4, NEW SCHEDULES RELATING TO PART 4

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

156

★ Page 30, line 31, leave out Clause 31

Mr Alistair Carmichael
Ian Murray
Wayne David

23

Clause 31, page 30, line 34, leave out “may” and insert “must”

Scotland Bill, *continued*

Ian Murray
Wayne David

Clause 31, page 30, line 36, leave out “Ministers” and insert “Parliament” 52

Mr Alistair Carmichael

Clause 31, page 30, line 37, at end insert— 57

“(1A) The Treasury and Scottish Ministers must agree a scheme transferring to the control of each of Shetland Islands Council, Orkney Islands Council and Comhairle nan Eilean Siar (“the island authorities”) on the transfer date all the existing Scottish functions and rights of the Commissioners relating to those parts of the Scottish zone surrounding each of the island authorities.

(1B) The exact extent of the parts of the Scottish zone to be transferred under subsection (1A) will be agreed by the Treasury and Scottish Ministers in consultation with the island authorities and in accordance with the principles contained within the United Nations Convention on the Law of the Sea articles 16, 74 and 84.”

Member’s explanatory statement

This Amendment would require the relevant functions of the Crown Estate in the Shetland Islands, Orkney and Na h-Eileanan Siar (the “Western Isles”) to be transferred to the councils for those areas. Articles 16, 74 and 84 of the UN Convention on the Law of the Sea set out principles for defining geographical extent in relation to the territorial sea, exclusive economic zones and the Continental shelf respectively.

Mr Jacob Rees-Mogg

Clause 31, page 31, line 22, at end insert— 125

“() The scheme must not include any alteration to the Sovereign Grant Act 2011.”

Member’s explanatory statement

The Sovereign Grant Act 2011 made provision for the honour and dignity of the Crown and the Royal Family and about allowances and pensions under the Civil List Acts of 1837 and 1952.

Mr Jacob Rees-Mogg

Clause 31, page 31, line 22, at end insert— 126

“() The scheme must not include any reduction in the pro rata payments due to Her Majesty under the Sovereign Grant Act 2011.”

Member’s explanatory statement

This amendment is to ensure that Scotland continues to contribute its share towards the costs of the Monarchy.

Mr Jacob Rees-Mogg

Clause 31, page 31, line 22, at end insert— 127

“() The scheme must not include any permanent alienation of the rights of the Crown.”

Member’s explanatory statement

This amendment protects the position of future Sovereigns in respect of the rights of the Crown.

Mr Alistair Carmichael

Clause 31, page 32, line 25, leave out “C” and insert “A” 24

Scotland Bill, *continued*

Mr Alistair Carmichael
 Clause 31, page 32, line 31, leave out “then, instead of the type C procedure” 25

Mr Alistair Carmichael
 Clause 31, page 32, line 31, leave out “I” and insert “A” 26

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson 133

★ Clause 32, page 33, line 44, leave out subsections (2) and (3) and insert—
 “Under the heading “Exceptions”, at the end insert—

“Equal opportunities in relation to an appointment as a member of a Scottish public authority.

Equal opportunities in relation to the Scottish functions of any Scottish public authority or cross-border public authority. The provision falling within this exception does not include any modification of the Equality Act 2006 or the Equality Act 2010, or any subordinate legislation made under those Acts, but does include—

- (a) provision that supplements or is otherwise additional to provision made by those Acts;
- (b) in particular, provision imposing a requirement to take action that the Acts do not prohibit;
- (c) provision that reproduces or applies an enactment contained in those Acts, with or without modification, without affecting the enactment as it applies for the purposes of those Acts.””

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson 134

★ Clause 32, page 34, line 2, leave out subsection (3)

Ian Murray
 Wayne David 123

Clause 32, page 34, line 13, at end insert, “including a requirement for gender balance among the members of the Scottish Parliament and members of boards of Scottish public authorities.”

Member’s explanatory statement

The Amendment would ensure continued progression towards achieving gender balance among members of the Scottish Parliament and on boards of Scottish public authorities.

 Scotland Bill, *continued*

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

135

- ★ Clause 32, page 34, line 25, leave out subsection (6) and insert—
 “In section 2 (*power to amend section 1*)—
 (a) in subsection (7) omit “the Scottish Ministers or”,
 (b) in subsection (10), before “Ministers” insert “Welsh””

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

136

- ★ Clause 32, page 34, line 37, leave out subsection (9) and insert—
 “In section 216 (commencement) at the beginning of subsection (3) insert
 “Subject to subsection (4),” and after that subsection insert—
 “(4) Part 1 comes into force on such day as the Scottish Ministers may by
 order appoint so far as it—
 (a) confers a power on the Scottish Ministers
 (b) relates to a public authority in respect of which such a power is
 exercisable.
 (5) The following do not apply to an order under subsection (4)—
 (a) section 207(2) (*see instead section 27 of the Interpretation and
 Legislative Reform (Scotland) Act 2010: powers exercisable by
 Scottish statutory instrument*), and
 (b) section 210.””

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

137

- ★ Clause 32, page 35, line 2, leave out subsection (10)
-

Mr Alistair Carmichael

27

- Clause 33, page 35, leave out lines 18 and 19

Scotland Bill, *continued*

Ian Murray Wayne David		53
Clause 33, page 35, line 18, leave out sub-sub-paragraph (b)		
Mr Alistair Carmichael		28
Clause 33, page 35, leave out lines 24 and 25		
Angus Robertson Mike Weir Stewart Hosie Dr Eilidh Whiteford Angela Crawley John Nicolson		138
★ Clause 33, page 35, line 26, leave out subsections (4) to (7) and insert— “This Schedule does not reserve the transfer of all the functions of a tribunal referred to in sub-paragraph (2) to a Scottish tribunal, so far as the functions are exercisable in relation to Scottish cases or a specified category of Scottish cases, in accordance with provision made by Her Majesty by Order in Council.”		
Mr Alistair Carmichael		29
Clause 33, page 35, leave out lines 26 to 30		
Angus Robertson Mike Weir Stewart Hosie Dr Eilidh Whiteford Angela Crawley John Nicolson		139
★ Clause 33, page 35, line 31, leave out subsections (5) to (7)		
Angus Robertson Mike Weir Stewart Hosie Dr Eilidh Whiteford Angela Crawley John Nicolson		140
★ Clause 33, page 36, line 22, at end insert— “(810A) For the avoidance of doubt, this Schedule does not reserve— (a) a Scottish tribunal’s practice and procedure when exercising functions that have been transferred to it by virtue of this paragraph, or (b) the fees and expenses chargeable for, or in connection with, proceedings before a Scottish tribunal when it is exercising those functions.”		
Ian Murray Wayne David		54
Clause 33, page 37, line 17, at end insert—		

Scotland Bill, *continued*

“(7A) Scottish Ministers, in conjunction with the Advisory, Conciliation and Arbitration Service (ACAS) shall establish and oversee a process, involving Scottish businesses and trades unions, to end the current employment tribunal fee system in Scotland.”

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

141

★ Clause 34, page 37, line 28, leave out from “relating” to “to” in line 29

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

142

★ Clause 36, page 41, line 15, leave out paragraph (a) and insert—
“(a) in relation to vehicles used on roads in Scotland means the Scottish Ministers.”

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

143

★ Clause 36, page 41, line 19, at end insert—
“(18) In section 130 (*application of Act to Crown*)—
 (a) in subsection (3) for “Secretary of State” substitute “relevant authority”,
 and
 (b) after that subsection insert—
 “(3A) In subsection (3) “relevant authority”—
 (a) in relation to vehicles used on roads in Scotland means
 the Scottish Ministers,
 (b) otherwise, means the Secretary of State.””

Scotland Bill, *continued*

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

144

★ Clause 41, page 42, line 33, leave out subsection (5) and insert—

“(5) After subsection (3) insert—

“(3A) Without limiting subsection (3), the Scottish Ministers may grant a licence upon the condition that the licence holder makes an annual rental payment to the Scottish Ministers.

(3B) In subsection (3A), “rental payment” means payment of an amount to be calculated by reference to the area of land to which the licence relates.”

Mr Alistair Carmichael

30

Clause 43, page 45, line 7, at end insert—

“(aa) in the list of subject-matter, leave out “(c) the Estate Agents Act 1979””

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

145

★ Clause 43, page 45, line 9, leave out from “insert—” to the end of subsection (8) and insert—

“The provision of consumer advocacy and advice.
Enforcement and redress for breach of consumer rights.”

(3) In Section C8 (product standards, safety and liability) after the heading “Exceptions” insert—

“The provision of consumer advocacy and advice.
Enforcement of, and redress for breach of, consumer rights.”

(4) In Section C9 (weights and measures) after the reservations insert—
“*Exceptions*

The provision of consumer advocacy and advice.
Enforcement of, and redress for breach of, consumer rights.”

(5) In Section C10 (telecommunications)—

- (a) for the heading “Exception” substitute “Exceptions”;
- (b) after that heading insert—

“The provision of consumer advocacy and advice.
Enforcement and redress for breach of consumer rights.”

(6) In Section C11 (posts)—

- (a) for the heading “Exception” substitute “Exceptions”;
- (b) after that heading insert—

Scotland Bill, *continued*

“The provision of consumer advocacy and advice.
Enforcement of, and redress for breach of, consumer rights.”

- (7) In Section D1 (electricity)—
- (a) for the heading “Exception” substitute “Exceptions”;
 - (b) after the exception relating to the Environmental Protection Act 1990 insert—

“The provision of consumer advocacy and advice.
Enforcement of, and redress for breach of, consumer rights.”

- (8) In Section D2 (oil and gas), at the end of the exceptions insert—

“The provision of consumer advocacy and advice.
Enforcement of, and redress for breach of, consumer rights.”

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

- 146**
- ★ Clause 45, page 47, line 3, leave out from “insert-“ to the end of subsection (1) and insert—

“Exceptions

The number of relevant gaming machines authorised (if any) in respect of premises licences under the Gambling Act 2005.

“Interpretation

A “relevant gaming machine” is a gaming machine (within the meaning of section 235 of the Gambling Act 2005) for which the maximum charge for use is more than £10.””.

Mr Alistair Carmichael

- 31**
- Clause 45, page 47, line 7, leave out “for which the maximum charge for use is more than £10”

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

- 147**
- ★ Clause 45, page 47, line 13, leave out from “means” to the end of subsection (4) and insert—

- “(a) the Scottish Ministers in respect of premises in Scotland in so far as the order varies the number of gaming machines authorised (if any) for which the maximum charge for use is more than £10, or
- (b) otherwise, the Secretary of State.”

Scotland Bill, *continued*

Mr Alistair Carmichael

32

Clause 45, page 47, line 17, leave out “for which the maximum charge for use is more than £10”

Mr Alistair Carmichael
 Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley

John Nicolson

33

Clause 45, page 47, line 35, leave out subsection (6)

Ian Murray
 Wayne David

NC22

To move the following Clause—

“Obstructive parking

- (1) In section E1 of Schedule 5 to the Scotland Act 1998 (Road transport) after “Exceptions”, insert—

“The subject matter of sections 19 to 22 (Stopping on verges, etc, or in dangerous positions, etc.) of the Road Traffic Act 1988;

The subject-matter of section 41(5) (Regulation of construction, weight, equipment and use of vehicles) of the Road Traffic Act 1988 in so far as it relates to the making of regulations making it an offence to cause or permit a vehicle to stand on the road so as to cause any unnecessary obstruction of the road.”

- (2) After section 51 of the Road Traffic Offenders Act 1988 (Fixed penalty offences) insert new section 51A—

“51A Offences under Road Traffic Act 1988

- (1) Any offence in respect of a vehicle under regulations made by Scottish Ministers under section 41(5) (Regulation of construction, weight, equipment and use of vehicles) of the Road Traffic Act 1988 is a fixed penalty offence for the purposes of this Part of this Act if it is specified as such in those regulations, but subject to subsection (2) below.
- (2) An offence under an enactment so specified is not a fixed penalty offence for those purposes if it is committed by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any enactment.”
- (3) Before proposing a change in regulation of a subject matter falling under this section, Scottish Ministers shall—
- (a) consult the Secretary of State, and

Scotland Bill, continued

- (b) publish and lay before the Scottish Parliament an assessment of the impact on road safety of any difference between the proposed change in Scotland and road traffic rules in other parts of the United Kingdom.””

Member’s explanatory statement

This amendment is intended to ensure that offences in relation to parking on pavements can be enforced by the Scottish Parliament. Other offences would be unaffected. This amendment is based on Mark Lazarowicz’s Private Members’ Bill from the last Parliament, which was supported in principle by the then Secretary of State for Scotland.

Mr Alistair Carmichael

NC26

To move the following Clause—

“Health and safety

In Part 2 of Schedule 5 to the Scotland Act 1998 (Employment), leave out Section H2 (Health and Safety).”

Member’s explanatory statement

This new Clause would remove from the list of reserved matters in the 1998 Act (and so transfer to the Scottish Parliament) the subject-matter of Part I of the Health and Safety at Work etc. Act 1974 (Health, safety and welfare in connection with work, and control of dangerous substances and certain emissions into the atmosphere), the Health and Safety Commission, the Health and Safety Executive and the Employment Medical Advisory Service.

Mr Alistair Carmichael

NC27

To move the following Clause—

“Business associations

In Section C1 in Part 2 of Schedule 5 to the Scotland Act 1998 (Business associations) at the end of the exceptions insert—

- “(c) the law on partnerships and unincorporated associations,
 - (d) the creation of new forms of cooperative enterprise,
 - (e) the creation of new forms of mutual enterprise,
 - (f) the creation of economic interest groups where the European Economic Interest Group under regulation EEC 2137/85 is not available because the members do not come from more than one member state.””
-

Scotland Bill, continued

Angus Robertson
Mike Weir
Dr Eilidh Whiteford
Stewart Hosie
Michelle Thomson
Natalie McGarry

NC47

To move the following Clause—

“Employment and industrial relations

In Part 2 of Schedule 5 to the Scotland Act 1998, omit Section H1 (employment and industrial relations).”

Member’s explanatory statement

This new clause would devolve employment and industrial relations to the Scottish Parliament.

Angus Robertson
Mike Weir
Dr Eilidh Whiteford
Stewart Hosie
Michelle Thomson
Natalie McGarry

NC48

To move the following Clause—

“Health and safety

- (1) In Part 2 of Schedule 5 to the Scotland Act 1998 (“the 1998 Act”), omit Section H2 (health and safety).
- (2) The Health and Safety Executive is a cross-border public authority for the purposes of the 1998 Act.
- (3) The 1998 Act applies in relation to the Health and Safety Executive in the same way as it applies in relation to cross-border public authorities specified in an Order in Council under section 88(5) of the 1998 Act.”

Member’s explanatory statement

This new clause would devolve health and safety to the Scottish Parliament and designates the Health and Safety Executive as a cross-border public authority.

Angus Robertson
Mike Weir
Dr Eilidh Whiteford
Stewart Hosie
Michelle Thomson
Natalie McGarry

NC49

To move the following Clause—

Scotland Bill, *continued*

“Equal opportunities

In Part 2 of Schedule 5 to the Scotland Act 1998, omit Section L2 (equal opportunities).”

Member’s explanatory statement

This new clause would devolve equal opportunities to the Scottish Parliament.

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

NC58

★ To move the following Clause—

“Levies in respect of argriculture and fisheries

- (1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section A1 is amended as follows.
 - (2) In the Exceptions, after the exception for devolved taxes insert—
“Levies in respect of agriculture and fisheries (including sea fisheries in the Scottish Zone and fisheries on the River Tweed): [their collection and management].”.
 - (3) After the exceptions insert—
“Interpretation
“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds,
“River Tweed” has the same meaning as in section 111(4).”
-

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

NC60

To move the following Clause—

“Broadcasting

Leave out section K1 in Part 2 of Schedule 5 (Broadcasting) to the 1998 Act.”

*Scotland Bill, continued**RELATING TO PART 6, CLAUSES 59 TO 64, NEW CLAUSES RELATING TO PART 7,
NEW SCHEDULES RELATING TO PART 7, REMAINING PROCEEDINGS ON THE BILL*

Ian Murray

- ★ Clause 49, page 49, line 6, after “operator”, insert “or not for profit operator” **157**

Ian Murray

- ★ Clause 49, page 49, line 8, leave out “does not” and insert “may” **158**

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

- ★ Clause 50, page 49, leave out from line 32 to line 50 on page 50 and insert— **149**
- “(4) The Scottish Ministers may not make regulations under section 9 unless they have consulted the Secretary of State about the proposed regulations.
- (5) Subsection (1) does not prevent the Secretary of State making a support scheme in relation to Scotland under section 9, or varying or revoking regulations made by the Scottish Ministers under that section with the agreement of the Scottish Ministers”

Angus Robertson
Mike Weir
Stewart Hosie
Dr Eilidh Whiteford
Angela Crawley
John Nicolson

- ★ Clause 51, page 52, line 10, leave out subsections (5) to (9) of section 33BCA of the Gas Act 1986 and substitute— **150**
- “(4) The power of the Scottish Ministers under section 33BC does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters).
- (5) The Scottish Ministers may not make an order under section 33BC unless they have consulted the Secretary of State about the proposed order.
- (6) The power of the Secretary of State to make an order under section 33BC is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only with the agreement of the Scottish Ministers.”

Scotland Bill, *continued*

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

151

★ Clause 51, page 53, line 45, leave out subsections (5) to (9) of section 33BDA of the Gas Act 1986 and substitute—

- “(5) The Scottish Ministers may not make an order under section 33BD unless they have consulted the Secretary of State about the proposed order
- (6) The power of the Secretary of State to make an order under section 33BD is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only with the agreement of the Scottish Ministers.”

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

152

★ Clause 51, page 55, leave out lines 28 to line 21 on page 56 and insert—

- “(5) The Scottish Ministers may not make an order under section 41A unless they have consulted the Secretary of State about the proposed order.
- (6) The power of the Secretary of State to make an order under section 41A is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only with the agreement of the Scottish Ministers.”

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

153

★ Clause 51, page 57, leave out lines 15 to line 7 on page 58 and insert—

- “(5) The Scottish Ministers may not make an order under section 41B unless they have consulted the Secretary of State about the proposed order.
- (6) The power of the Secretary of State to make an order under section 41B is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only with the agreement of the Scottish Ministers.”

Scotland Bill, continued

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

154

★ Clause 53, page 60, leave out lines 9 to 17.

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

155

★ Clause 55, page 63, leave out lines 18 to 22 and insert—
 “(c) the Scottish Ministers,
 (d) the Scottish Ministers and the Secretary of State acting jointly; or
 (e) the Scottish Ministers, the Secretary of State and one or more than one
 other Minister of the Crown, acting jointly.”

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

NC57

★ To move the following Clause—

“Crown property

- (1) Part 1 of Schedule 5 to the Scotland Act 1998 (general reservations) is amended as follows
- (2) Omit paragraph 2(3)
- (3) In paragraph 3(3), omit paragraph (a)
- (4) After paragraph 3, insert—

“3A Without prejudice to paragraphs 2 and 3, paragraph 1 does not reserve—

- (a) removing or altering functions of, or conferring functions on, the Crown Estate Commissioners in relation to the holding or management of property within paragraph 3(1),
- (b) where a function of the Crown Estate Commissioners of holding property is so removed, the transfer of any property held in exercise of the function.”

Scotland Bill, continued

- (5) Functions relating to Crown property are, so far as they relate to Crown property in or relating to the Scottish offshore region, to be treated for the purposes of the Scotland Act 1998 as exercisable in or as regards Scotland.
- (6) In subsection (5)—
- “Crown property” means property within paragraph 3(1) of Part 1 of Schedule 5 to the Scotland Act 1998,
- “Scottish offshore region” has the same meaning as in the Marine and Coastal Access Act 2009 (see section 322 of that Act)
- (7) In section 1(2) of the Civil List Act 1952 (payment of hereditary revenues into the Scottish Consolidated Fund), omit “from bona vacantia, ultimus haeres and treasure trove”.
-

Mr Graham Allen

NC12

To move the following Clause—

“Local authority’s power of general competence

- (1) A local authority has power to do anything that individuals generally may do.
- (2) Subsection (1) applies to things that an individual may do even though they are in nature, extent or otherwise—
- (a) unlike anything the authority may do apart from subsection (1), or
- (b) unlike anything that other public bodies may do.
- (3) In this section “individual” means an individual with full capacity.
- (4) Where subsection (1) confers power on the authority to do something, it confers power (subject to sections (*Boundaries of the general power*) to (*Limits on doing things for commercial purposes in exercise of general power*) to do it in any way whatever, including—
- (a) power to do it anywhere in the United Kingdom or elsewhere,
- (b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and
- (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
- (5) The generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.
- (6) Any such other power is not limited by the existence of the general power (but see section (*Powers to make supplemental provision*)(2)).”

Member’s explanatory statement

This series of new Clauses seeks to introduce a general power of competence for Scottish local authorities, putting it beyond doubt that they may do anything that is not expressly prohibited by law. It seeks to go further than the power of wellbeing already afforded to Scottish local authorities. The proposals seek to give councils the capacity to do anything that an individual can do. Therefore, this would not enable a local authority to introduce a tax or wage war, but it would ensure that local government has the ability to use the power of general competence in the most sensible and constructive way for the benefit of the people and communities whom they serve.

Scotland Bill, *continued*

Mr Graham Allen

NC13

To move the following Clause—

“Boundaries of the general power

- (1) If exercise of a pre-commencement power of a local authority is subject to restrictions, those restrictions apply also to exercise of the general power so far as it is overlapped by the pre-commencement power.
- (2) The general power does not enable a local authority to do—
 - (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to the general power,
 - (ii) to all of the authority’s powers, or
 - (iii) to all of the authority’s powers but with exceptions that do not include the general power.
- (3) The general power does not confer power to make or alter—
 - (a) arrangements of a kind which may be made under sections 56 (*arrangements for discharge of authority’s functions by committees, joint committees, officers etc.*) or 62B (*establishment of joint boards*) of the Local Government (Scotland) Act 1973,
 - (b) any other arrangements that authorise a person to exercise a function of a local authority.
- (4) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—

 - (a) is contained in an Act passed after the day on which this Act is passed or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section (*Local authority’s general power of competence*),

“pre-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—

 - (a) is contained in this Act, or in any other Act passed no later than the day on which this Act is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section (*Local authority’s general power of competence*),

“pre-commencement power” means power conferred by a statutory provision that—

 - (a) is contained in this Act, or in any other Act passed no later than the day on which this Act is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section (*Local authority’s general power of competence*).

Member’s explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

 Scotland Bill, *continued*

Mr Graham Allen

NC14

To move the following Clause—

“Limits on charging in exercise of general power

- (1) Subsection (2) applies where—
 - (a) a local authority provides a service to a person otherwise than for a commercial purpose, and
 - (b) its providing the service to the person is done, or could be done, in exercise of the general power.
- (2) The general power confers power to charge the person for providing the service to the person only if—
 - (a) the service is not one that a statutory provision requires the authority to provide to the person,
 - (b) the person has agreed to its being provided, and
 - (c) ignoring this section and section 1 of the Local Authorities (Goods and Services) Act 1970 (*supply of goods and services by local authorities*), the authority does not have power to charge for providing the service.
- (3) The general power is subject to a duty to secure that, taking one financial year with another, the income from charges allowed by subsection (2) does not exceed the costs of provision.
- (4) The duty under subsection (3) applies separately in relation to each kind of service.”

Member’s explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC15

To move the following Clause—

“Limits on doing things for commercial purpose in exercise of general power

- (1) The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose.
- (2) Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.
- (3) A local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.
- (4) In this section “company” means—
 - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a registered society within the meaning the Co-operative and Community Benefit Societies Act 2014 or a society registered or deemed to be

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registered under the Industrial and Provident Societies Act (Northern Ireland) 1969.”

Member's explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC16

To move the following Clause—

“Powers to make supplemental provision

- (1) If the Scottish Ministers think that a statutory provision (whenever passed or made) prevents or restricts local authorities from exercising the general power, the Scottish Ministers may by regulations amend, repeal, revoke or disapply that provision.
- (2) If the Scottish Ministers think that the general power is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the Scottish Minister may by regulations amend, repeal, revoke or disapply any statutory provision (whenever passed or made).
- (3) The Scottish Ministers may by regulations make provision preventing local authorities from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the regulations.
- (4) The Scottish Ministers may by regulations provide for the exercise of the general power by local authorities to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the regulations.
- (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—
 - (a) all local authorities,
 - (b) particular local authorities, or
 - (c) particular descriptions of local authority.
- (6) The power under subsection (1) or (2) to amend or disapply a statutory provision includes power to amend or disapply a statutory provision for a particular period.
- (7) Before making regulations under subsection (1), (2), (3) or (4) the Scottish Ministers must consult—
 - (a) such local authorities,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),
 as the Scottish Ministers consider appropriate.”

Member's explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC17

To move the following Clause—

Scotland Bill, continued

“Limits on power under section (*Powers to make supplemental provision*)(1)

- (1) The Scottish Ministers may not make provision under section (*Powers to make supplemental provision*)(1) unless the Scottish Ministers consider that the conditions in subsection (2), where relevant, are satisfied in relation to that provision.
- (2) Those conditions are that—
 - (a) the effect of the provision is proportionate to the policy objective intended to be secured by the provision,
 - (b) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it,
 - (c) the provision does not remove any necessary protection,
 - (d) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise,
 - (e) the provision is not of constitutional significance.
- (3) Regulations under section (*Powers to make supplemental provision*)(1) may not make provision for the delegation or transfer of any function of legislating.
- (4) For the purposes of subsection (3) a function of legislating is a function of legislating by order, rules, regulations or other subordinate instrument.
- (5) Regulations under section (*Powers to make supplemental provision*)(1) may not make provision to abolish or vary any tax.”

Member’s explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC18

To move the following Clause—

“Procedure for regulations under section (*Powers to make supplemental provision*)

- (1) If, as a result of any consultation required by section (*Powers to make supplemental provision*)(7) with respect to proposed regulations under section (*Powers to make supplemental provision*)(1), it appears to the Scottish Ministers that it is appropriate to change the whole or any part of the Scottish Ministers’ proposals, the Scottish Ministers must undertake such further consultation with respect to the changes as the Scottish Ministers consider appropriate.
- (2) If, after the conclusion of the consultation required by section (*Powers to make supplemental provision*)(7) and subsection (1), the Scottish Ministers consider it appropriate to proceed with the making of regulations under section (*Powers to make supplemental provision*)(1), the Scottish Ministers must, when laying a draft of the regulations, also lay before the Scottish Parliament an explanatory document explaining the proposals and giving details of—
 - (a) the Scottish Ministers’ reasons for considering that the conditions in section (*Limits on power under section (Powers to make supplemental provision)(1)*)(2), where relevant, are satisfied in relation to the proposals,
 - (b) any consultation undertaken under section (*Powers to make supplemental provision*)(7) and subsection (1),
 - (c) any representations received as a result of the consultation, and

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- (d) the changes (if any) made as a result of those representations.
- (3) If provision under section (*Powers to make supplemental provision*)(2) is included in draft regulations under section (*Powers to make supplemental provision*)(1) laid in the circumstances described in subsection (2), the explanatory document laid with the draft regulations must also explain the proposals under section (*Powers to make supplemental provision*)(2) and give details of any consultation undertaken under section (*Powers to make supplemental provision*)(7) with respect to those proposals.
- (4) Section (*Powers to make supplemental provision*)(7) does not apply to regulations under section (*Powers to make supplemental provision*)(3) or (4) which are made only for the purpose of amending earlier such regulations—
- (a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier regulations, or any provision of the earlier regulations, ceases to apply to a particular authority or to authorities of a particular description.”

Member’s explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC19

To move the following Clause—

“Local authority’s general power of competence: interpretation

In this Part—

“the general power” means the power conferred by section (*Local authority’s general power of competence*)(1),

“statutory provision” means a provision of an Act or of an instrument made under an Act.”

Member’s explanatory statement

This new Clause is linked to the new Clause on a local authority power of general competence (NC12).

Mr Graham Allen

NC29

To move the following Clause—

“Competences of local government in Scotland

- (1) The First Minister must, after consultation with representatives from local government in Scotland, publish a list of competences of local government in Scotland.
- (2) After the list has been published, the First Minister may not publish any amended list of competences of local government in Scotland without first obtaining approval of the revised list consent from

Scotland Bill, continued

- (a) the Scottish Parliament, with two-thirds of its membership voting in favour of the amended list, and
- (b) the Convention of Scottish Local Authorities.”

Member’s explanatory statement

This new clause entrenches the independence of local government in Scotland from interference by national government in Scotland.

Mr Graham Allen

NC30

To move the following Clause—

“Subsidiarity

That Subsidiarity as defined by the Maastricht Treaty 1992 Article 5(3) shall apply to the functions of national and local government in Scotland.”

Member’s explanatory statement

This extends protection of Scottish Local Government’s independence by protecting its subsidiarity behind a European Treaty applicable to the United Kingdom.

Ian Murray
Wayne David

NC41

To move the following Clause—

“Scottish Government review of measures taken to promote gender equality in Scottish Parliament

Scottish Ministers shall, within six months of the day on which this Act is passed, publish and lay before the Scottish Parliament a comprehensive review of the measures which the Scottish Government is taking to further and to promote gender equality in the membership of the Scottish Parliament and on the boards of Scottish public authorities.”

Member’s explanatory statement

This New Clause requires Scottish Ministers to publish a review of the measures they are taking to promote gender equality among members of the Scottish Parliament and on boards of Scottish public authorities.

Mr Graham Allen

NC50

To move the following Clause—

“Commission on social and economic rights

- (1) The Secretary of State shall appoint a commission on social and economic rights.

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- (2) The Secretary of State shall invite the Presiding Officers or Speakers of the House of Commons, House of Lords, National Assembly of Wales, Northern Ireland Assembly and the Scottish Parliament each to nominate no more than three persons to the commission on social and economic rights.
- (3) The commission on social and economic rights must report on—
 - (a) the practicality of making the Scottish Parliament and Scottish Government subject to the rights contained in the International Covenant on Economic, Social and Cultural Rights; and
 - (b) the consequences of Scottish devolution for the attainment of economic and social rights throughout the United Kingdom.
- (4) The Secretary of State may by regulations determine the role, composition, organisation and powers of the commission on social and economic rights.”

Member's explanatory statement

The purpose of this New Clause is to create a commission to consider whether economic and social rights could be made justiciable in Scotland, and the prospects for achieving fuller attainment of economic and social rights throughout the United Kingdom.

Mr Graham Allen

NC52

To move the following Clause—

“Office of Wellbeing

- (1) Scottish Ministers shall appoint an independent Office of Wellbeing to monitor and report on the wellbeing impacts of fiscal and macro-economic policy in Scotland, with a particular focus on inequalities of wellbeing.
- (2) The First Minister must publish at least once a year a wellbeing statement setting out the relevant social, economic and environmental policies of Scottish Ministers and their intended effects on the wellbeing of the people of Scotland.
- (3) The Office of Wellbeing may commission independent research.
- (4) The Office of Wellbeing must report at least once a year on progress being made against the wellbeing statement made by the First Minister and may report from time to time on any other relevant matter.
- (5) The costs of the Office of Wellbeing shall be borne by the Scottish Parliament.”

Member's explanatory statement

This Clause establishes an independent Office of Wellbeing, akin to the Office for Budget Responsibility, to ensure that expert consideration is given to the interplay between the economic, fiscal and macro-economic policies of the Scottish and United Kingdom Governments and their environmental, economic and social effects.

Dr John Pugh
Mrs Fiona Bruce
Robert Ffello

NC56

★ To move the following Clause—

 Scotland Bill, *continued*
“Abortion

In Part 2 of Schedule 5 to the 1998 Act, leave out section J1 (*abortion*).”

Member’s explanatory statement

This amendment removes the specific reservation of abortion, thus transferring competence over abortion to the Scottish Parliament.

Angus Robertson
 Mike Weir
 Stewart Hosie
 Dr Eilidh Whiteford
 Angela Crawley
 John Nicolson

NC59

To move the following Clause—

“Party political broadcasts

In Section K1 of Part 2 of Schedule 5 to the Scotland Act 1998 (broadcasting), after the reservation insert—

“Exceptions

The regulation of

- (a) party political broadcasts in connection with elections that are within the legislative competence of the Parliament, and
 - (b) referendum campaign broadcasts in connection with referendums held under Acts of the Scottish Parliament.”
-

Ian Murray
 Wayne David

1

Clause 63, page 67, line 24, leave out paragraph (a)

Member’s explanatory statement

This amendment provides that section 1 will not come into force on the day on which the Act is passed, in order to link the commencement of Part 1 of the Act (Constitutional arrangements) with the work of the Constitutional Convention, outlined in New Clause NC2 which would be required to report by 31 March 2016.

Ian Murray
 Wayne David

2

Clause 63, page 67, line 26, at end insert—

“(1A) Part 1 comes into force within one month of the publication of the report of the Constitutional Convention appointed under section (*Constitutional Convention*).”

Member’s explanatory statement

This amendment provides that Part 1 of the Act (Constitutional arrangements) comes into force after publication of the report of the Constitutional Convention, as outlined in New Clause NC2, which would be required to report by 31 March 2016.

*Scotland Bill, continued*Ian Murray
Wayne David

3

Clause 63, page 67, line 30, leave out subsection (3) and insert—

“(3) Part 2 of the Bill comes into force at the end of 2 months beginning with the publication of the report of the Independent Commission on Full Fiscal Autonomy appointed under section (*Independent Commission on Full Fiscal Autonomy*).”

Member’s explanatory statement

This amendment provides that Part 2 (Tax) will not come into force at the end of two months beginning with the day on which the Act is passed, in order to link the commencement of the tax provisions of the Act with the work of the Independent Commission on Full Fiscal Autonomy, appointed under New Clause NCI, which would be required to report by 31 March 2016.

ORDER OF THE HOUSE [8 JUNE 2015]

That the following provisions shall apply to the Scotland Bill:

Committal

1. The Bill shall be committed to a Committee of the whole House.

Proceedings in Committee

2. Proceedings in Committee of the whole House shall be completed in four days.
3. The proceedings shall be taken on the days shown in the first column of the following Table and in the order so shown.
4. The proceedings shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

TABLE

<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
First day	
Clauses 1 to 11, new Clauses relating to Part 1, new Schedules relating to Part 1	The moment of interruption on the first day
Second day	
Clauses 12 to 17, Schedule 1, Clause 18, new Clauses relating to Part 2, new Schedules relating to Part 2	The moment of interruption on the second day
Third day	
Clauses 19 to 30, new Clauses relating to Part 3, new Schedules relating to Part 3	The moment of interruption on the third day
Fourth day	

Scotland Bill, *continued*

<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
Clauses 31 to 37, Schedule 2, Clauses 38 to 45, new Clauses relating to Part 4, new Schedules relating to Part 4	Three hours after the commencement of proceedings on the Bill on the fourth day
Clauses 46 to 55, new Clauses relating to Part 5, new Schedules relating to Part 5, Clauses 56 to 58, new Clauses relating to Part 6, new Schedules relating to Part 6, Clauses 59 to 64, new Clauses relating to Part 7, new Schedules relating to Part 7, remaining proceedings on the Bill	The moment of interruption on the fourth day

Consideration and Third Reading

5. Any proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

7. Standing Order No 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.

NOTICES WITHDRAWN

The following Notices were withdrawn on 18 June:

Amendment 14

The following Notices were withdrawn on 23 June:

Amendments 11, 15, 34, 35, 91 and NC4

The following Notices were withdrawn on 24 June:

NCs 36, 37, 38, 42
