



House of Commons

Tuesday 30 June 2015

COMMITTEE OF THE WHOLE HOUSE

New Amendments handed in are marked thus ★

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

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This document includes all remaining amendments and includes any withdrawn amendments at the end.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 19 TO 30, NEW CLAUSES RELATING TO PART 3, NEW SCHEDULES RELATING TO PART 3

Ian Murray
Wayne David
Kate Green

128

Clause 19, page 21, line 39, leave out from “of” to the end of line 7 on page 22 and insert “a disabled person or person with a physical or mental impairment or health condition in respect of effects or needs arising from that disability, impairment or health condition.”

Member’s explanatory statement

The current definition of ‘disability benefit’ used in the Bill is restrictive and could place unnecessary limits on the kind of replacement benefit the Scottish Government has the power to introduce. It may not, for example, allow the Scottish Government to introduce a benefit to assist people with very low level disabilities or those for whom the effect of their disability is largely financial.

Ian Murray
Kate Green

112

Clause 19, page 22, leave out lines 6 and 7

Member’s explanatory statement

Removes the word “short-term” in the clause devolving disability benefit. It is not clear what “short-term” means in this context, how it will be defined or whom it may exclude from receiving the benefit.

 Scotland Bill, *continued*

Ian Murray
Wayne David
Angus Robertson
Mike Weir
Dr Eilidh Whiteford
Stewart Hosie

Michelle Thomson

Natalie McGarry

Clause 19, page 22, line 45, leave out sub-paragraph (a).

48

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

Ian Murray

Clause 20, page 23, line 27, after “financial”, insert “or other”

Member’s explanatory statement

This amendment would enable the provision of assistance, in relation to benefits for maternity, funeral and heating expenses, in a form other than cash.

115

Ian Murray
Wayne David

Clause 20, page 23, line 33, leave out “8” and insert “9”

49

Ian Murray
Wayne David

Clause 20, page 23, line 34, leave out “8” and insert “9”

50

Ian Murray
Wayne David
Kate Green

Clause 21, page 24, leave out lines 9 and 10

12

Scotland Bill, *continued*

Mr Graham Allen

129

Clause 22, page 24, line 27, leave out from “who” to “appears” in line 32.

Member’s explanatory statement

The current Exception 6 would extend the power to provide discretionary housing payments only to those already in receipt of housing benefit. Those who lose entitlement to any housing benefit as a result of the under-occupancy charge are precluded from accessing discretionary housing payments. The amendment seeks to allow the Scottish Parliament to mitigate the impact of the bedroom tax.

Angus Robertson

Mike Weir

Dr Eilidh Whiteford

Stewart Hosie

Michelle Thomson

Natalie McGarry

116

Clause 22, page 24, leave out lines 36 to 48

Member’s explanatory statement

This amendment would remove some of the restrictions, including those relating to sanctions, in relation to discretionary housing payments.

Ian Murray

Wayne David

Kate Green

13

Clause 22, page 24, leave out lines 36 and 37

Mr Graham Allen

132

Clause 22, page 25, leave out lines 1 to 8

Member’s explanatory statement

The exception in the Bill could be problematic where claimants have had their housing benefit wrongly suspended. The amendment would allow the Scottish Parliament to provide discretionary housing payments in cases which might be regarded as arising from non-payability of a reserved benefit.

Ian Murray

Wayne David

Kate Green

Angus Robertson

Mike Weir

Dr Eilidh Whiteford

Stewart Hosie

Michelle Thomson

Natalie McGarry

8

Clause 23, page 25, line 28, leave out “short-term”

 Scotland Bill, *continued*

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

117

Clause 23, page 25, leave out lines 30 to 37

Member's explanatory statement

This amendment would broaden when discretionary housing payments can be made by removing some restrictions including those relating to sanctions.

Ian Murray
 Wayne David
 Kate Green
 Angus Robertson
 Mike Weir
 Dr Eilidh Whiteford

Stewart Hosie

Michelle Thomson

Natalie McGarry

111

Clause 23, page 25, line 39, leave out "occasional"

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

130

Clause 23, page 25, line 40, after "individuals", insert "(a)"

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

Ian Murray

131

Clause 23, page 25, line 45, at end add "or

(b) who are part of a family facing exceptional pressure."

Scotland Bill, *continued*

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

Ian Murray

118

Clause 24, page 26, line 20, leave out from “unless” to end of line 25 and insert “they have consulted the Secretary of State”

Member’s explanatory statement

This amendment would remove the requirement for the Scottish Government to obtain consent from a UK Secretary of State in relation to Universal Credit and the costs of claimants who rent accommodation.

Ian Murray
Wayne David
Kate Green

5

Clause 24, page 26, line 23, leave out paragraph (b) and insert—

“(b) they have consulted the Secretary of State as to when any change made by the regulations is to start to have effect.”

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

Ian Murray

119

Clause 25, page 26, line 45, leave out from “unless” to end of line 5 on page 27 and insert “they have consulted the Secretary of State”

Member’s explanatory statement

This amendment would remove the requirement for the Scottish Government to obtain consent from a UK Secretary of State in relation to persons to whom, and time when, Universal Credit is paid.

Ian Murray
Wayne David
Kate Green

7

Clause 25, page 27, line 1, after second “of”, insert “the delivery mechanism for”

Scotland Bill, *continued*

Ian Murray
Wayne David
Kate Green

6

Clause 25, page 27, line 3, leave out paragraph (b) and insert—
“(b) they have consulted the Secretary of State as to when any change made by the regulations is to start to have effect.”

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

Ian Murray

120

Clause 26, page 27, line 22, leave out from beginning to “for” in line 23 and insert “Arrangements”
Member’s explanatory statement
Amendments 120, 121 and 122 make provision for the Scottish Parliament to have power to legislate on arrangements for employment support programmes.

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

Ian Murray

121

Clause 26, page 27, leave out lines 27 to 29 and insert—
“(b) assisting persons (including persons claiming reserved benefits) who are unemployed or at risk of long-term unemployment to select, obtain and retain employment”
Member’s explanatory statement
Amendments 120, 121 and 122 make provision for the Scottish Parliament to have power to legislate on arrangements for employment support programmes.

Ian Murray
Kate Green

113

Clause 26, page 27, line 29, leave out “where the assistance is for at least a year”
Member’s explanatory statement
This would allow the provision of employment programmes where assistance is for less than a year. The Scottish Government could develop support programmes for those who repeatedly move in and out of short periods of work, or admit people to the Work Programme early.

 Scotland Bill, *continued*

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

Ian Murray

122

Clause 26, page 27, line 34, leave out “another person” and insert “a person other than the person making the arrangements”

Member’s explanatory statement

Amendments 120, 121 and 122 make provision for the Scottish Parliament to have power to legislate on arrangements for employment support programmes.

Ian Murray
 Wayne David
 Kate Green

9

Clause 26, page 27, line 36, after “person”, insert “in conjunction with the local authority”

Ian Murray
 Kate Green

114

Clause 26, page 27, line 39, at end insert—

“(b) provision of support for disabled persons in the form of non-repayable payments to enable them to access employment, remain in employment, or move into self-employment or start a business.”

Member’s explanatory statement

This amendment provides for the devolution of the Access-to-work scheme.

Ian Murray
 Wayne David
 Kate Green

10

Clause 26, page 27, line 41, at end insert “and

(d) temporary jobs paid at least the national minimum wage providing a route back into further work.”

 Scotland Bill, *continued*

Ian Murray
Wayne David
Kate Green

NC28

To move the following Clause—

“Housing benefit

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 8 (see section 23 above) insert—

“Exception 9

Housing benefit.””

Member’s explanatory statement

This New Clause provides for the full devolution of Housing Benefit, allowing Scottish Ministers to abolish the Spare Room Subsidy in Scotland, and to provide £1.8 billion of investment in housing in Scotland.

Ian Murray
Wayne David
Kate Green
Angus Robertson
Mike Weir
Dr Eilidh Whiteford

Stewart Hosie

Michelle Thomson

Natalie McGarry

NC31

To move the following Clause—

“New benefits

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 8 (see section 23 above) insert—

“Exception 9

A benefit not in existence at the relevant date provided entitlement to or the purpose of the benefit is different from entitlement to or the purpose of any benefit that is—

- (a) in existence at the relevant date,
- (b) payable by or on behalf of a Minister of the Crown, and
- (c) otherwise a reserved benefit.

For the purpose of this exception—

“the relevant date” means the date of introduction into Parliament of the Bill that becomes the Scotland Act 2015;

Scotland Bill, continued

“reserved benefit” means a benefit which is to any extent a reserved matter.”

Member’s explanatory statement

This New Clause broadens the circumstances under which the Scottish Parliament can create new benefits, as recommended by the Smith Commission.

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

NC39

To move the following Clause—

“National Insurance

- (1) Section F1 of Schedule 5 to the Scotland Act 1998 is amended as follows.
- (2) In the illustrations, omit “National Insurance;”
- (3) In the exceptions, at the beginning insert—

“National Insurance.”

Member’s explanatory statement

This new clause would devolve National Insurance to the Scottish Parliament

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

NC40

To move the following Clause—

“National Insurance: employers’ contributions

- (1) Section F1 of Schedule 5 to the Scotland Act 1998 is amended as follows.
- (2) In the illustrations, omit “National Insurance;”
- (3) In the Exceptions, after exception 11 (see section (*Benefits relating to children*)) insert—

“Exception 12

National Insurance so far as relating to contributions payable by employers.””

Member’s explanatory statement

This new clause would devolve employers’ National Insurance contributions to the Scottish Parliament.

 Scotland Bill, *continued*

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

NC43

To move the following Clause—

“Job search and support

In Part 2 of Schedule 5 to the Scotland Act 1998, omit Section H3 (job search and support).”

Member’s explanatory statement

This new clause would devolve employment support programmes to the Scottish Parliament.

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

NC44

To move the following Clause—

“Working age benefits

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 9 (see section 23A above) insert—

“Exception 10

Benefits entitlement to which, or the purposes of which, are the same as or similar to those of any of the following benefits—

- (a) universal credit under Part 1 of the Welfare Reform Act 2012,
- (b) jobseeker’s allowance (whether contributions-based or income-based) under the Jobseekers Act 1995,
- (c) employment and support allowance (whether contributory or income-related) under Part 1 of the Welfare Reform Act 2007,
- (d) income support under section 124 of the Social Security and Benefits Act 1992,
- (e) housing benefit under section 130 of that Act,
- (f) child tax credit and working tax credit under the Tax Credits Act 2002.

The benefits referred to in paragraphs (a) to (f) above are—

- (a) in the case of income-based jobseeker’s allowance and income-related employment support allowance, those benefits as they existed on 28 April 2013 (the day before their abolition),

Scotland Bill, continued

- (b) in the case of the other benefits, those benefits as they existed on 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2015).”

Member’s explanatory statement

This new clause would devolve working age benefits to the Scottish Parliament.

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

NC45

To move the following Clause—

“Universal credit: powers to vary other elements

- (1) A function of making regulations to which this section applies, so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State.
- (2) This section applies to—
 - (a) regulations under section 8(3)(a) of the Welfare Reform Act 2012 (amount in respect of earned income) so far relating to the work allowance (that is, the amount of a claimant’s earned income that is to be disregarded in calculating the amounts to be deducted from the maximum amount in accordance with section 8(3) of that Act),
 - (b) regulations under section 10 of that Act (amount in respect of responsibility for children and young persons),
 - (c) regulations under section 12 of that Act (amounts in respect of other particular needs or circumstances) so far as relating to—
 - (i) the needs or circumstances referred to in subsection (2)(c) of that section (caring responsibilities for a severely disabled person), or
 - (ii) needs or circumstances of a claimant in paid work relating to childcare costs,
 - (d) regulations under any of sections 14 to 22, 24 and 25 of that Act (work-related requirements), and
 - (e) regulations under any of sections 26 to 28 of that Act (sanctions).
- (3) The Scottish Ministers may not exercise the function of making regulations to which this section applies unless they have consulted the Secretary of State.
- (4) The Secretary of State may not exercise the function of making regulations to which this section applies in or as regards Scotland unless he or she has consulted the Scottish Ministers.
- (5) Where regulations are made by the Scottish Ministers by virtue of subsection (1)—
 - (a) section 43 of the Welfare Reform Act 2012 (regulations: procedure) does not apply, and

Scotland Bill, continued

- (b) the regulations are subject to the negative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010).”

Member’s explanatory statement

This new clause would give the Scottish Parliament greater flexibility to make changes in Universal Credit.

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

NC46

To move the following Clause—

“Benefits relating to children

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 10 (see section (Working age benefits) above) insert—

“Exception 11

Benefits entitlement to which, or the purposes of which, are the same as or similar to those of any of the following benefits—

- (a) guardian’s allowance under section 77 of the Social Security Contributions and Benefits Act 1992,
- (b) child benefit under Part 9 of that Act.

The benefits referred to in paragraphs (a) and (b) are those benefits as they existed on 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2015).”

Member’s explanatory statement

This new clause would devolve benefits relating to children to the Scottish Parliament.

 Scotland Bill, *continued*

Ian Murray
Wayne David
Kate Green

NC53

To move the following Clause—

“Childcare element of universal credit

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in Exceptions, after exception 6 (see section 22 above) insert—

“Exception 7

The subject-matter of regulations 31 to 34 of the Universal Credit Regulations 2013.””

Member’s explanatory statement

This will allow the Scottish Government to help parents and families in Scotland by devolving to the Scottish Parliament control over, and the power to vary, the childcare element of Universal Credit.

Sir Edward Leigh

NC55

To move the following Clause—

“Social security

In Part 2 of Schedule 5 to the Scotland Act 1998, leave out Head F (Social security).”

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) all social security schemes, including National Insurance and housing benefit, as well as child support, occupational and personal pensions and war pensions.

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

Mr Alistair Carmichael
Ian Murray
Wayne David

23

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

Ian Murray
Wayne David

52

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

Scotland Bill, *continued*

Mr Alistair Carmichael

57

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

“(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

125

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

“() 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

126

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

“() 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

127

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

“() 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

24

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

Mr Alistair Carmichael

25

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

 Scotland Bill, *continued*

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

Ian Murray 123
 Wayne David
 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.

Mr Alistair Carmichael 27
 Clause 33, page 35, leave out lines 18 and 19

Ian Murray 53
 Wayne David
 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

Mr Alistair Carmichael 29
 Clause 33, page 35, leave out lines 26 to 30

Ian Murray 54
 Wayne David
 Clause 33, page 37, line 17, at end insert—
 “(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.”

 Scotland Bill, *continued*

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””

Mr Alistair Carmichael

31

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

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

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

Scotland Bill, continued

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
 - (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.

Scotland Bill, *continued*

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

NC49

To move the following Clause—

“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.

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

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

Scotland Bill, continued

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.

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

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- (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).

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.

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- (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 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),

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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—

“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.

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- (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
 - (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).

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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
 - (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

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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.
- (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,

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fiscal and macro-economic policies of the Scottish and United Kingdom Governments and their environmental, economic and social effects.

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.

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 NC1, 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.

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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	
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.

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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
