

LORDS AMENDMENTS TO THE
EUROPEAN UNION (WITHDRAWAL) BILL

[The page and line references are to HL Bill 79, the bill as first printed for the Lords]

Clause 1

1 Page 1, line 2, at end insert—

“(1) Subsection (2) applies if, and only if, the condition in subsection (3) is met.”

2 Page 1, line 3, at end insert—

“(3) The condition in this subsection is that, by 31 October 2018, a Minister of the Crown has laid before both Houses of Parliament a statement outlining the steps taken in negotiations under Article 50(2) of the Treaty on European Union to negotiate, as part of the framework for the United Kingdom’s future relationship with the European Union, an arrangement which enables the United Kingdom to continue participating in a customs union with the European Union.”

After Clause 3

3 Insert the following new Clause—

“Maintenance of EU environmental principles and standards

- (1) The Secretary of State must take steps designed to ensure that the United Kingdom’s withdrawal from the EU does not result in the removal or diminution of any rights, powers, liabilities, obligations, restrictions, remedies and procedures that contribute to the protection and improvement of the environment.
- (2) In particular, the Secretary of State must carry out the activities required by subsections (3) to (5) within the period of six months beginning with the date on which this Act is passed.
- (3) The Secretary of State must publish proposals for primary legislation to establish a duty on public authorities to apply principles of environmental law established in EU law or on which EU environmental law is based in the exercise of relevant functions after exit day.

- (4) The Secretary of State must publish proposals for primary legislation to establish an independent body with the purpose of ensuring compliance with environmental law by public authorities.
- (5) The Secretary of State must publish—
 - (a) a list of statutory functions that can be exercised so as to achieve the objective in subsection (1); and
 - (b) a list of functions currently exercised by EU bodies that require to be retained or replicated in UK law in order to achieve the objective in subsection (1).
- (6) The Secretary of State must before 1 January 2020 lay before Parliament a Statement of Environmental Policy which sets out how the principles in subsection (7) will be given effect.
- (7) The principles referred to in subsection (3) include—
 - (a) the precautionary principle as it relates to the environment,
 - (b) the principle of preventive action to avert environmental damage,
 - (c) the principle that environmental damage should as a priority be rectified at source,
 - (d) the polluter pays principle,
 - (e) sustainable development,
 - (f) prudent and rational utilisation of natural resources,
 - (g) public access to environmental information,
 - (h) public participation in environmental decision making, and
 - (i) access to justice in relation to environmental matters.
- (8) Before complying with subsections (3) to (6) the Secretary of State must consult—
 - (a) each of the devolved administrations;
 - (b) persons appearing to represent the interests of local government;
 - (c) persons appearing to represent environmental interests;
 - (d) farmers and land managers; and
 - (e) such other persons as the Secretary of State thinks appropriate.”

4 Insert the following new Clause –

“Enhanced protection for certain areas of EU law

- (1) Following the day on which this Act is passed, a Minister of the Crown may not amend, repeal or revoke retained EU law relating to—
 - (a) employment entitlements, rights and protection,
 - (b) equality entitlements, rights and protection,
 - (c) health and safety entitlements, rights and protection,
 - (d) consumer standards, or
 - (e) environmental standards and protection,except by primary legislation, or by subordinate legislation made under any Act of Parliament insofar as this subordinate legislation meets the requirements in subsections (2) to (5).
- (2) Subordinate legislation which amends, repeals or revokes retained EU law in the areas set out in subsection (1) must be subject to an enhanced scrutiny procedure, to be established by regulations made by the Secretary of State.

- (3) Regulations under subsection (2) may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (4) The enhanced scrutiny procedure provided for by subsection (2) must include a period of consultation with relevant stakeholders.
- (5) When making regulations relating to the areas of retained EU law set out in subsection (1), whether under this Act or any other Act of Parliament, a Minister of the Crown must—
 - (a) produce an explanatory statement under paragraph 22 of Schedule 7, and
 - (b) include a certification that the regulation does no more than make technical changes to retained EU law in order for it to work following exit.”

Clause 5

5 Page 3, line 20, leave out subsections (4) and (5) and insert—

- “() The following provisions of the Charter of Fundamental Rights are not part of domestic law on or after exit day—
- (a) the Preamble, and
 - (b) Chapter V.”

Clause 6

6 Page 3, line 34, at beginning insert “Subject to this and subsections (3) to (6),”

7 Page 3, line 34, leave out “need not” and insert “may”

8 Page 3, line 35, leave out from “the EU” to the end of line 36 and insert “so far as it is relevant to any matter before the court or tribunal.”

After Clause 6

9 Insert the following new Clause—

“Status of retained EU law

- (1) Anything which—
 - (a) was, immediately before exit day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and
 - (b) continues to be domestic law on and after exit day by virtue of section 2,
 continues to be domestic law as an enactment of the same kind.
- (2) Retained direct principal EU legislation cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3A, 3C(3)(a) or (4)(a), 3F(3), 5A(3)(a) or (4)(a), 5B(2)(a) or 5C(3) of Schedule 8,

- (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (3) Retained direct minor EU legislation cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3A, 3C(2) or (4)(a), 3F(3), 5A(2) or (4)(a) or 5C(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (4) Anything which is retained EU law by virtue of section 4 cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3A, 3C(3)(b) or (4)(b), 3F(3), 5A(3)(b) or (4)(b), 5B(2)(b) or 5C(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (5) For other provisions about the status of retained EU law, see—
 - (a) section 5(1) to (3) (status of retained EU law in relation to other enactments or rules of law),
 - (b) section 6 (status of retained case law and retained general principles of EU law),
 - (c) section 13(2) and Part 2 of Schedule 5 (status of retained EU law for the purposes of the rules of evidence),
 - (d) paragraphs 8 and 9 of Schedule 8 (status of certain retained direct EU legislation for the purposes of the Interpretation Act 1978), and
 - (e) paragraph 19 of that Schedule (status of retained direct EU legislation for the purposes of the Human Rights Act 1998).
- (6) In this Act—
 - “retained direct minor EU legislation” means any retained direct EU legislation which is not retained direct principal EU legislation;

“retained direct principal EU legislation” means –

- (a) any EU regulation so far as it –
 - (i) forms part of domestic law on and after exit day by virtue of section 3, and
 - (ii) was not EU tertiary legislation immediately before exit day, or
 - (b) any Annex to the EEA agreement so far as it –
 - (i) forms part of domestic law on and after exit day by virtue of section 3, and
 - (ii) refers to, or contains adaptations of, any EU regulation so far as it falls within paragraph (a),
- (as modified by or under this Act or by other domestic law from time to time).”

Clause 7

- 10 Page 5, line 3, leave out “the Minister considers appropriate” and insert “is necessary”
- 11 Page 6, line 7, leave out “newly established or”
- 12 Page 6, line 10, leave out from “modified” to the end of line 13
- 13 Page 6, line 15, after “taxation” insert “or fees”
- 14 Page 6, line 17, at end insert –
“() establish a public authority,”
- 15 Page 6, line 21, after “repeal” insert “the Scotland Act 1998, the Government of Wales Act 2006 or”
- 16 Page 6, line 23, leave out from “repealing” to “any” in line 24
- 17 Page 6, line 24, leave out “that Act” and insert “those Acts”

Clause 8

- 18 Leave out Clause 8

Before Clause 9

- 19 Insert the following new Clause –
“Parliamentary approval of the outcome of negotiations with the European Union
 - (1) Without prejudice to any other statutory provision relating to the withdrawal agreement, Her Majesty’s Government may conclude such an agreement only if a draft has been –
 - (a) approved by a resolution of the House of Commons, and
 - (b) subject to the consideration of a motion in the House of Lords.
 - (2) So far as practicable, a Minister of the Crown must make arrangements for the resolution provided for in subsection (1)(a) to be debated and voted on before the European Parliament has debated and voted on the draft withdrawal agreement.

- (3) Her Majesty’s Government may implement a withdrawal agreement only if Parliament has approved the withdrawal agreement and any transitional measures agreed within or alongside it by an Act of Parliament.
- (4) Subsection (5) applies in each case that any of the conditions in subsections (6) to (8) is met.
- (5) Her Majesty’s Government must follow any direction in relation to the negotiations under Article 50(2) of the Treaty on European Union which has been—
 - (a) approved by a resolution of the House of Commons, and
 - (b) subject to the consideration of a motion in the House of Lords.
- (6) The condition in this subsection is that the House of Commons has not approved the resolution required under subsection (1)(a) by 30 November 2018.
- (7) The condition in this subsection is that the Act of Parliament required under subsection (3) has not received Royal Assent by 31 January 2019.
- (8) The condition in this subsection is that no withdrawal agreement has been reached between the United Kingdom and the European Union by 28 February 2019.
- (9) In this section, “withdrawal agreement” means an agreement (whether or not ratified) between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU and the framework for the United Kingdom’s future relationship with the European Union.”

Clause 9

- 20 Page 7, line 7, after “to” insert—
 “(a) approval by Parliament of a mandate for negotiations about the United Kingdom’s future relationship with the EU; and
 (b) ”
- 21 Page 7, line 11, leave out “(including modifying this Act)”
- 22 Page 7, line 13, after “taxation” insert “or fees”
- 23 Page 7, line 15, after “offence,” insert—
 “() establish a public authority,”

After Clause 9

- 24 Insert the following new Clause—
- “Maintenance of refugee family unity within Europe**
- (1) A Minister of the Crown must make appropriate arrangements with the aim of preserving specified effects in the United Kingdom of Regulation (EU) No. 604/2013 (the “Dublin Regulation”), including through negotiations with the EU.
 - (2) “Specified effects” under subsection (1) are those provisions, and associated rights and obligations, that allow for those seeking asylum, including unaccompanied minors, adults and children, to join a family member, sibling or relative in the United Kingdom.

- (3) Within six months of the passing of this Act, and then every six months thereafter, a Minister of the Crown must report to Parliament on progress made in negotiations to secure the continuation of reciprocal arrangements between the United Kingdom and member States as they relate to subsection (1).”

Before Clause 10

25 Insert the following new Clause –

“Continuation of North-South co-operation and the prevention of new border arrangements

- (1) In exercising any of the powers under this Act, a Minister of the Crown or devolved authority must –
- (a) act in a way that is compatible with the terms of the Northern Ireland Act 1998, and
 - (b) have due regard to the joint report from the negotiators of the EU and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 of the Treaty on European Union.
- (2) Nothing in section 7, 8, 9 or 17 of this Act authorises regulations which –
- (a) diminish any form of North-South co-operation across the full range of political, economic, security, societal and agricultural contexts and frameworks of co-operation, including the continued operation of the North-South implementation bodies, or
 - (b) create or facilitate border arrangements between Northern Ireland and the Republic of Ireland after exit day which feature –
 - (i) physical infrastructure, including border posts,
 - (ii) a requirement for customs or regulatory compliance checks,
 - (iii) a requirement for security checks,
 - (iv) random checks on goods vehicles, or
 - (v) any other checks and controls,
 that did not exist before exit day and are not subject to an agreement between Her Majesty’s Government and the Government of Ireland.”

Clause 11

26 Page 7, line 25, leave out subsections (1) to (3) and insert –

“(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for the Scottish Parliament to legislate incompatibly with EU law) for “with EU law” substitute “in breach of the restriction in section 30A(1)”.

- (2) After section 30 of that Act (legislative competence: supplementary) insert –

“30A Legislative competence: restriction relating to retained EU law

- (1) An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Parliament.

- (3) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless –
- (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Parliament having made such a decision.
- (4) For the purposes of subsection (3) a consent decision is –
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must –
- (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Scottish Parliament which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) In this section –
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,
- and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”

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- (3) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for the National Assembly for Wales to legislate incompatibly with EU law) for “with EU law” substitute “in breach of the restriction in section 109A(1)”.
- (3A) After section 109 of that Act (legislative competence: supplementary) insert—

“109A Legislative competence: restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the Assembly’s legislative competence.
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—
- (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (5) For the purposes of subsection (4) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
- (a) provide a copy of the draft to the Welsh Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section –
“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,
and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”
- (3B) In section 6(2)(d) of the Northern Ireland Act 1998 (no competence for the Northern Ireland Assembly to legislate incompatibly with EU law) for “incompatible with EU law” substitute “in breach of the restriction in section 6A(1)”.
- (3C) After section 6 of that Act (legislative competence) insert –

“6A Restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Assembly.
- (3) A Minister of the Crown must not lay for approval before each House of Parliament a draft of a statutory instrument containing regulations under this section unless –
- (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (4) For the purposes of subsection (3) a consent decision is –
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must –
- (a) provide a copy of the draft to the relevant Northern Ireland department, and

- (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also section 96A (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) Regulations under this section may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (12) In this section –
 “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;
 “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,
 and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”

27 Page 8, line 40, leave out “(3)” and insert “(3C)”

28 Page 8, line 41, at end insert –

- “(4A) Part 1A of Schedule 3 (which imposes reporting obligations on a Minister of the Crown in recognition of the fact that the powers to make regulations conferred by subsections (1) to (3C) and Part 1 of Schedule 3, and any restrictions arising by virtue of them, are intended to be temporary) has effect.
- (4B) A Minister of the Crown may by regulations –
- (a) repeal any of the following provisions –
- (i) section 30A or 57(4) to (15) of the Scotland Act 1998,
 - (ii) section 80(8) to (8L) or 109A of the Government of Wales Act 2006, or
 - (iii) section 6A or 24(3) to (15) of the Northern Ireland Act 1998,
or
- (b) modify any enactment in consequence of any such repeal.

- (4C) Until all of the provisions mentioned in subsection (4B)(a) have been repealed, a Minister of the Crown must, after the end of each review period, consider whether it is appropriate –
- (a) to repeal each of those provisions so far as it has not been repealed, or
 - (b) to revoke any regulations made under any of those provisions so far as they have not been revoked.
- (4D) In considering whether to exercise the power to make regulations under subsection (4B), a Minister of the Crown must have regard (among other things) to –
- (a) the fact that the powers to make regulations conferred by the provisions mentioned in subsection (4B)(a), and any restrictions arising by virtue of them, are intended to be temporary and, where appropriate, replaced with other arrangements, and
 - (b) any progress which has been made in implementing those other arrangements.”

29 Page 8, line 42, leave out “other”

30 Page 8, line 43, after “legislation” insert “not dealt with elsewhere”

31 Page 8, line 43, at end insert –

“(6) In this section –

“arrangement” means any enactment or other arrangement (whether or not legally enforceable);

“review period” means –

- (a) the period of three months beginning with the day on which subsection (4C) comes into force, and
- (b) after that, each successive period of three months.”

Before Clause 14

32 Insert the following new Clause –

“Future interaction with the law and agencies of the EU

Nothing in this Act shall prevent the United Kingdom from –

- (a) replicating in domestic law any EU law made on or after exit day, or
- (b) continuing to participate in, or have a formal relationship with, the agencies of the European Union after exit day.”

Clause 14

33 Page 9, line 42, at end insert –

“() an enactment contained in any Order in Council made in exercise of Her Majesty’s Prerogative,”

- 34 Page 10, line 6, after “legislation,” insert –
 “() an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,”
- 35 Page 10, line 6, after “legislation,” insert –
 “() an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England,”
- 36 Page 10, line 7, leave out “section 2” and insert “sections 2 and (*Status of retained EU law*)”
- 37 Page 10, line 40, leave out from “means” to end of line 41 and insert “such day as a Minister of the Crown may by regulations appoint (and see subsection (2));”
- 38 Page 11, line 26, after “in” insert “section (*Status of retained EU law*) or”
- 39 Page 11, line 38, leave out subsections (2) to (5) and insert –
 “(2) In this Act –
 (a) where a Minister of the Crown appoints a time as well as a day as exit day (see paragraph 19 of Schedule 7), references to before, after or on that day, or to beginning with that day, are to be read as references to before, after or at that time on that day or (as the case may be) to beginning with that time on that day, and
 (b) where a Minister of the Crown does not appoint a time as well as a day as exit day, the reference to exit day in section 1 is to be read as a reference to the beginning of that day.”
- 40 Page 12, line 6, at end insert –
 “(6A) In this Act references to anything which is retained EU law by virtue of section 4 include references to any modifications, made by or under this Act or by other domestic law from time to time, of the rights, powers, liabilities, obligations, restrictions, remedies or procedures concerned.”

Clause 15

- 41 Page 12, line 25, at end insert –
- | | |
|---------------|---------|
| “Anything | Section |
| which is | 14(6A)” |
| retained EU | |
| law by virtue | |
| of section 4 | |
- 42 Page 13, line 33, at end insert –

“Retained direct minor EU legislation	Section (<i>Status of retained EU law</i>)(6)
Retained direct principal EU legislation	Section (<i>Status of retained EU law</i>)(6)”

Clause 17

- 43 Page 14, line 14, leave out “the Minister considers appropriate” and insert “is necessary”
- 44 Page 14, line 19, at end insert—
“() No regulations may be made under subsection (1) after the end of the period of 10 years beginning with exit day.”
- 45 Page 14, line 22, leave out “the Minister considers appropriate” and insert “is necessary”

Clause 19

- 46 Page 15, line 12, at end insert—
“() paragraphs 3A, 3B, 19(2)(b), 40(b), 43(2)(c) and (d) and (4) of Schedule 3 (and section 11(4A) and (5) so far as relating to those paragraphs),”
- 47 Page 15, line 15, leave out “(3)” and insert “(3A)”
- 48 Page 15, line 15, at end insert—
“() paragraph 29(9), 30A and 31 of Schedule 8 (and section 17(6) so far as relating to those paragraphs),”
- 49 Page 15, line 18, at end insert—
“(1A) In section 11—
(a) subsection (2) comes into force on the day on which this Act is passed for the purposes of making regulations under section 30A of the Scotland Act 1998,
(b) subsection (3A) comes into force on that day for the purposes of making regulations under section 109A of the Government of Wales Act 2006, and
(c) subsection (3C) comes into force on that day for the purposes of making regulations under section 6A of the Northern Ireland Act 1998.
- (1B) In Schedule 3—
(a) paragraph 1(b) comes into force on the day on which this Act is passed for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
(b) paragraph 2 comes into force on that day for the purposes of making regulations under section 80(8) of the Government of Wales Act 2006,

- (c) paragraph 3(b) comes into force on that day for the purposes of making regulations under section 24(3) of the Northern Ireland Act 1998,
- (d) paragraph 21(2) comes into force on that day for the purposes of making regulations under section 30A of the Scotland Act 1998,
- (e) paragraph 21(3) comes into force on that day for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
- (f) paragraph 21A comes into force on that day for the purposes of making regulations under section 30A or 57(4) of the Scotland Act 1998,
- (g) paragraph 36A comes into force on that day for the purposes of making regulations under section 80(8) or 109A of the Government of Wales Act 2006, and
- (h) paragraphs 48A and 48B come into force on that day for the purposes of making regulations under section 6A or 24(3) of the Northern Ireland Act 1998;

and section 11(4) and (5), so far as relating to each of those paragraphs, comes into force on that day for the purposes of making the regulations mentioned above in relation to that paragraph.”

50 Page 15, line 19, leave out “The remaining provisions of this Act” and insert “The provisions of this Act, so far as they are not brought into force by subsections (1) to (1B),”

51 Page 15, line 21, at end insert –

“(2B) But none of the remaining provisions may come into force until it is a negotiating objective of the Government to ensure that an international agreement has been made which enables the United Kingdom to continue to participate in the European Economic Area after exit day.

(2C) Regulations under this Act may not repeal or amend subsection (2B).”

Schedule 1

52 Page 16, leave out lines 11 to 15

53 Page 16, line 21, leave out paragraph 3

Schedule 2

54 Page 17, line 29, leave out from “under” to end of line 29 and insert “sub-paragraph (1) above”

55 Page 17, line 30, leave out from “8” to end of line 35

56 Page 17, line 37, leave out “regulations” and insert “provision”

57 Page 17, line 37, leave out from “made” to “unless” and insert “by a devolved authority acting alone in regulations under this Part”

58 Page 17, line 38, leave out “every provision of them” and insert “the provision”

59 Page 18, line 4, leave out paragraphs 3 and 4 and insert—

- “3A (1) No provision may be made by the Scottish Ministers acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 30A(1) of the Scotland Act 1998 if the provision were made in an Act of the Scottish Parliament, or
 - (ii) the restriction in section 57(4) of the Act of 1998 if section 57(5)(b) of that Act so far as relating to this Schedule were ignored.
- (2) No provision may be made by the Welsh Ministers acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 80(8) of the Government of Wales Act 2006 if section 80(8A)(b) of that Act so far as relating to this Schedule were ignored, or
 - (ii) the restriction in section 109A(1) of that Act if the provision were made in an Act of the National Assembly for Wales.
- (3) No provision may be made by a Northern Ireland department acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 6A(1) of the Northern Ireland Act 1998 if the provision were made in an Act of the Northern Ireland Assembly, or
 - (ii) the restriction in section 24(3) of the Act of 1998 if section 24(4)(b) of that Act so far as relating to this Schedule were ignored.
- (4) No provision may be made by a devolved authority acting alone in regulations under this Part so far as, when made, the provision is inconsistent with any modification (whether or not in force) which—
- (a) is a modification of any retained direct EU legislation or anything which is retained EU law by virtue of section 4,
 - (b) is made by this Act or a Minister of the Crown under this Act, and
 - (c) could not be made by the devolved authority by virtue of subparagraph (1), (2) or (as the case may be) (3).

(5) For the purposes of sub-paragraphs (1)(b), (2)(b) and (3)(b), sections 30A and 57(4) to (15) of the Scotland Act 1998, sections 80(8) to (8L) and 109A of the Government of Wales Act 2006 and sections 6A and 24(3) to (15) of the Northern Ireland Act 1998, and any regulations made under them and any related provision, are to be assumed to be wholly in force so far as that is not otherwise the case.

(6) References in this paragraph to section 80(8) of the Government of Wales Act 2006 are to be read as references to the new section 80(8) of that Act provided for by paragraph 2 of Schedule 3 to this Act.”

- 60 Page 19, line 5, after “Ministers” insert “acting alone”
- 61 Page 19, line 9, after “department” insert “acting alone”
- 62 Page 19, line 19, after “authority” insert “acting alone”
- 63 Page 19, line 34, after “(b)” insert “and of a devolved authority acting alone or (as the case may be) other person acting alone”
- 64 Page 20, line 31, after “Ministers” insert “acting alone”
- 65 Page 20, line 36, after “Ministers” insert “acting alone”
- 66 Page 20, line 42, after “Ministers” insert “acting alone”
- 67 Page 21, line 2, after “department” insert “acting alone”
- 68 Page 21, line 35, after “Advocate” insert “acting alone”
- 69 Page 22, line 11, after “Ministers” insert “acting alone”
- 70 Page 22, line 43, after “authority” insert “acting alone”
- 71 Page 23, line 14, leave out paragraphs 13 to 20
- 72 Page 26, line 25, after “taxation” insert “or fees”
- 73 Page 26, line 27, at end insert—
“() establish a public authority,”
- 74 Page 26, line 28, leave out paragraph (d)
- 75 Page 26, line 37, leave out sub-paragraph (5)
- 76 Page 26, line 41, leave out from “under” to “are” and insert “sub-paragraph (1)”
- 77 Page 27, line 2, leave out “regulations” and insert “provision”
- 78 Page 27, line 2, leave out from “made” to “unless” and insert “by a devolved authority acting alone in regulations under this Part”
- 79 Page 27, line 3, leave out “every provision of them” and insert “the provision”
- 80 Page 27, line 5, leave out sub-paragraph (2) and insert—
“(2) See paragraphs 27 to 29 for the meaning of “devolved competence” for the purposes of this Part.”

81 Page 27, line 8, leave out paragraphs 23 and 24 and insert—

- “23A(1) No provision may be made by the Scottish Ministers acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 30A(1) of the Scotland Act 1998 if the provision were made in an Act of the Scottish Parliament, or
 - (ii) the restriction in section 57(4) of the Act of 1998 if section 57(5)(b) of that Act so far as relating to this Schedule were ignored.
- (2) No provision may be made by the Welsh Ministers acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 80(8) of the Government of Wales Act 2006 if section 80(8A)(b) of that Act so far as relating to this Schedule were ignored, or
 - (ii) the restriction in section 109A(1) of that Act if the provision were made in an Act of the National Assembly for Wales.
- (3) No provision may be made by a Northern Ireland department acting alone in regulations under this Part so far as the provision—
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of—
 - (i) the restriction in section 6A(1) of the Northern Ireland Act 1998 if the provision were made in an Act of the Northern Ireland Assembly, or
 - (ii) the restriction in section 24(3) of the Act of 1998 if section 24(4)(b) of that Act so far as relating to this Schedule were ignored.
- (4) No provision may be made by a devolved authority acting alone in regulations under this Part so far as, when made, the provision is inconsistent with any modification (whether or not in force) which—
- (a) is a modification of any retained direct EU legislation or anything which is retained EU law by virtue of section 4,
 - (b) is made by this Act or a Minister of the Crown under this Act, and
 - (c) could not be made by the devolved authority by virtue of subparagraph (1), (2) or (as the case may be) (3).

- (5) For the purposes of sub-paragraphs (1)(b), (2)(b) and (3)(b), sections 30A and 57(4) to (15) of the Scotland Act 1998, sections 80(8) to (8L) and 109A of the Government of Wales Act 2006 and sections 6A and 24(3) to (15) of the Northern Ireland Act 1998, and any regulations made under them and any related provision, are to be assumed to be wholly in force so far as that is not otherwise the case.
- (6) References in this paragraph to section 80(8) of the Government of Wales Act 2006 are to be read as references to the new section 80(8) of that Act provided for by paragraph 2 of Schedule 3 to this Act.”

82 Page 28, line 2, leave out “without the consent of a Minister of the Crown”

83 Page 28, line 5, at end insert “, unless the regulations are, to that extent, made after consulting with the Secretary of State”

84 Page 28, line 16, at end insert—

“Meaning of devolved competence: Part 3

27 A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—

- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or
- (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).

28 A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—

- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
- (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).

29 A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—

- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
 - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and
 - (ii) would not require the consent of the Secretary of State,
- (b) the provision—
 - (i) amends or repeals Northern Ireland legislation, and

- (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or
- (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).”

Schedule 3

85 Page 28, line 29, leave out from “law” to end of line 37 and insert “and the modification is of a description specified in regulations made by a Minister of the Crown.

- (5) But subsection (4) does not apply –
 - (a) so far as the modification would be within the legislative competence of the Parliament if it were included in an Act of the Scottish Parliament, or
 - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (6) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under subsection (4) unless –
 - (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Parliament having made such a decision.
- (7) For the purposes of subsection (6) a consent decision is –
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
 and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (8) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (6) must –
 - (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (9) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4) including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (10) No regulations may be made under subsection (4) after the end of the period of two years beginning with exit day.
- (11) Subsection (10) does not affect the continuation in force of regulations made under subsection (4) at or before the end of the period mentioned in subsection (10).

- (12) Any regulations under subsection (4) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (13) Subsections (6) to (11) do not apply in relation to regulations which only relate to a revocation of a specification.
- (14) The restriction in subsection (4) is in addition to any restriction in section (*Status of retained EU law*) of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a member of the Scottish Government to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section –
 “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,
 and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”

86 Page 29, line 6, leave out from “law” to end of line 18 and insert “and the modification is of a description specified in regulations made by a Minister of the Crown.

- (8A) But subsection (8) does not apply –
 (a) so far as the modification would be within the Assembly’s legislative competence if it were included in an Act of the Assembly, or
 (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (8B) No regulations are to be made under subsection (8) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (8C) A Minister of the Crown must not lay a draft as mentioned in subsection (8B) unless –
 (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 (b) the 40 day period has ended without the Assembly having made such a decision.
- (8D) For the purposes of subsection (8C) a consent decision is –
 (a) a decision to agree a motion consenting to the laying of the draft,
 (b) a decision not to agree a motion consenting to the laying of the draft, or
 (c) a decision to agree a motion refusing to consent to the laying of the draft;
 and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

- (8E) In subsection (8C)–
 “the 40 day period” means the period of 40 days beginning
 with the day on which a copy of the draft instrument is
 provided to the Welsh Ministers,
 and, in calculating that period, no account is to be taken of any time during
 which the Assembly is dissolved or during which it is in recess for more
 than four days.
- (8F) A Minister of the Crown who is proposing to lay a draft as mentioned in
 subsection (8B) must–
 (a) provide a copy of the draft to the Welsh Ministers, and
 (b) inform the Presiding Officer that a copy has been so provided.
- (8G) See also section 157ZA (duty to make explanatory statement about
 regulations under subsection (8) including a duty to explain any decision
 to lay a draft without the consent of the Assembly).
- (8H) No regulations may be made under subsection (8) after the end of the
 period of two years beginning with exit day.
- (8I) Subsection (8H) does not affect the continuation in force of regulations
 made under subsection (8) at or before the end of the period mentioned in
 subsection (8H).
- (8J) Any regulations under subsection (8) which are in force at the end of the
 period of five years beginning with the time at which they came into force
 are revoked in their application to the making, confirming or approving of
 subordinate legislation after the end of that period.
- (8K) Subsections (8C) to (8I) do not apply in relation to regulations which only
 relate to a revocation of a specification.
- (8L) The restriction in subsection (8) is in addition to any restriction in section
 (*Status of retained EU law*) of the European Union (Withdrawal) Act 2018 or
 elsewhere on the power of the Welsh Ministers to make, confirm or
 approve any subordinate legislation so far as the legislation modifies
 retained EU law.””

87 Page 29, line 29, leave out from “law” to end of line 44 and insert “and the
 modification is of a description specified in regulations made by a Minister of the
 Crown.

- (4) But subsection (3) does not apply –
 (a) so far as the modification would be within the legislative
 competence of the Assembly if it were included in an Act of the
 Assembly, or
 (b) to the making of regulations under Schedule 2 or 4 to the European
 Union (Withdrawal) Act 2018.
- (5) A Minister of the Crown must not lay for approval before each House of
 the Parliament a draft of a statutory instrument containing regulations
 under subsection (3) unless –
 (a) the Assembly has made a consent decision in relation to the laying
 of the draft, or
 (b) the 40 day period has ended without the Assembly having made
 such a decision.

-
- (6) For the purposes of subsection (5) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must—
- (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.
- (10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).
- (11) Any regulations under subsection (3) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.
- (13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (14) The restriction in subsection (3) is in addition to any restriction in section (*Status of retained EU law*) of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a Minister or Northern Ireland department to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—
- “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;
 - “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,
- and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”

“PART 1A

REPORTS IN CONNECTION WITH RETAINED EU LAW RESTRICTIONS

Reports on progress towards removing retained EU law restrictions

- 3A (1) After the end of each reporting period, a Minister of the Crown must lay before each House of Parliament a report which—
- (a) contains details of any steps which have been taken in the reporting period by Her Majesty’s Government (whether or not in conjunction with any of the appropriate authorities) towards implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,
 - (b) explains how principles—
 - (i) agreed between Her Majesty’s Government and any of the appropriate authorities, and
 - (ii) relating to implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,
 have been taken into account during the reporting period,
 - (c) specifies any relevant regulations, or regulations under section 11(4B), which have been made in the reporting period,
 - (d) in relation to any retained EU law restriction which has effect at the end of the reporting period, sets out the Minister’s assessment of the progress which still needs to be made before it can be removed,
 - (e) in relation to any relevant power that has not been repealed before the end of the reporting period, sets out the Minister’s assessment of the progress which still needs to be made before it can be repealed, and
 - (f) contains any other information relating to any relevant powers or retained EU law restrictions, or the arrangements which are to replace them, that the Minister considers appropriate.
- (2) The first reporting period is the period of three months beginning with the day on which this Act is passed.
- (3) Each successive period of three months after the first reporting period is a reporting period.
- (4) A Minister of the Crown must provide a copy of every report laid before Parliament under this section—
- (a) to the Scottish Ministers,
 - (b) to the Welsh Ministers, and
 - (c) either to the First Minister in Northern Ireland and the deputy First Minister in Northern Ireland or to the relevant Northern Ireland department and its Northern Ireland Minister.
- (5) In sub-paragraph (4) “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate.
- (6) This paragraph ceases to apply when no retained EU law restrictions have effect and all the relevant powers have been repealed.

Interpretation

- 3B In this Part—
- “appropriate authority” means—
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, or
 - (c) a Northern Ireland devolved authority;
- “arrangement” means any enactment or other arrangement (whether or not legally enforceable);
- “relevant power” means a power to make regulations conferred by—
- (a) section 30A or 57(4) of the Scotland Act 1998,
 - (b) section 80(8) or 109A of the Government of Wales Act 2006, or
 - (c) section 6A or 24(3) of the Northern Ireland Act 1998;
- “relevant regulations” means regulations made under a relevant power;
- “retained EU law restriction” means any restriction which arises by virtue of relevant regulations.”

89 Page 31, line 24, at end insert—

- “19A In Part 2 of Schedule 5 (specific reservations), in section C8 (product standards, safety and liability), for the words from “Technical standards and” to “EU law” substitute—

“The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law.””

90 Page 31, line 34, leave out from “section” to end of line 35 and insert “30 insert—

“Section 30A | Type C”.”

91 Page 32, leave out line 2 and insert—

““Section 57(4) | Type C”.”

92 Page 32, line 2, at end insert—

- “21A After paragraph 5 of Schedule 7 (procedure for subordinate legislation: special cases) insert—

“6 (1) This paragraph applies where a draft of an instrument containing regulations under section 30A or 57(4) is to be laid before each House of Parliament.

(2) Before the draft is laid, the Minister of the Crown who is to make the instrument—

- (a) must make a statement explaining the effect of the instrument, and

(b) in any case where the Parliament has not made a decision to agree a motion consenting to the laying of the draft –

- (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
- (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Scottish Ministers giving the opinion of the Scottish Ministers as to why the Parliament has not made that decision.

(3) A statement of a Minister of the Crown under sub-paragraph (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(4) For the purposes of this paragraph, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(5) This paragraph does not apply to a draft of an instrument which only contains regulations under section 30A or 57(4) which only relate to a revocation of a specification.””

93 Page 32, line 8, at end insert –

“24A In section 13(5) (power of the Welsh Ministers to make provision about elections etc.) –

- (a) omit paragraph (c) but not the “and” at the end of it, and
- (b) in paragraph (d) omit “, European Parliamentary elections”.”

94 Page 32, line 14, at end insert –

“25A In section 16(3) (disqualification from being Assembly member) omit “(other than the United Kingdom)”.”

95 Page 33, line 6, at end insert –

“() In subsection (9), leave out “and (8)” and insert “, (8) and (8L)””

96 Page 33, line 7, leave out sub-paragraph (7)

97 Page 33, line 9, at end insert “, and

- (b) in subsection (7)(a), omit “, (b)”.”

98 Page 33, line 20, at end insert –

“36A After section 157 (orders, regulations and directions) insert –

“157ZA Explanatory statements in relation to certain regulations

- (1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument –
 - (a) must make a statement explaining the effect of the instrument, and

- (b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—
 - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
 - (ii) must lay before each House of Parliament any statement provided for the purpose of this subparagraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the Assembly has not made that decision.

- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification.””

99 Page 33, line 26, at end insert—

“39A In Part 2 of Schedule 7A (specific reservations), in section C7 (product standards, safety and liability), for paragraph 77 substitute—

“77 The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law.””

100 Page 34, line 34, at end insert—

“48A After section 96(4) (orders and regulations) insert—

“(4A) Regulations under section 6A or 24(3)—
 (a) shall be made by statutory instrument, and
 (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

48B After section 96 (orders and regulations) insert—

“96A Explanatory statements in relation to certain regulations

- (1) This section applies where a draft of a statutory instrument containing regulations under section 6A or 24(3) is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
 - (a) must make a statement explaining the effect of the instrument, and
 - (b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—
 - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and

- (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by a relevant Minister giving the opinion of the relevant Minister as to why the Assembly has not made that decision.
- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) In this section “relevant Minister” means the First Minister and the deputy First Minister acting jointly or a Northern Ireland Minister.
- (6) This section does not apply to a draft of an instrument which only contains regulations under section 6A or 24(3) which only relate to a revocation of a specification.”

101 Page 34, line 42, at end insert –

“50A In Schedule 3 (reserved matters), in paragraph 38, for the words from “Technical” to “not” substitute “The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law, other than”.”

Schedule 4

102 Page 35, line 14, leave out from beginning to “or” in line 15

103 Page 37, line 12, at end insert –

“Time limit for making certain provision

- 4A (1) Subject to sub-paragraph (2), no regulations may be made under paragraph 1 after the end of the period of two years beginning with exit day.
- (2) After the end of that period, regulations may be made under paragraph 1 for the purposes of –
- (a) revoking any provision made under that paragraph,
 - (b) altering the amount of any of the fees or charges that are to be charged under any provision made under that paragraph,
 - (c) altering how any of the fees or charges that are to be charged under any provision made under that paragraph are to be determined, or
 - (d) otherwise altering the fees or charges that may be charged in relation to anything in respect of which fees or charges may be charged under any provision made under that paragraph.

- (3) This paragraph does not affect the continuation in force of any regulations made at or before the end of the period mentioned in subparagraph (1) (including the exercise after the end of that period of any power conferred by regulations made under that paragraph at or before the end of that period).”

104 Page 37, line 14, leave out “, 8”

105 Page 38, line 19, leave out “, 8”

Schedule 7

106 Page 41, line 41, leave out paragraphs (a) and (b)

107 Page 42, line 6, leave out “imposes, or otherwise”

108 Page 42, line 35, at end insert –

“(9A) See paragraph 3A for restrictions on the choice of procedure under subparagraph (9).”

109 Page 43, line 1, leave out “paragraph 4” and insert “paragraphs 4 to 4C”

110 Page 44, line 35, leave out from beginning to end of line 20 on page 45 and insert –

“Parliamentary committees to sift regulations made under section 7, 8, 9 or 17

3 (1) This paragraph applies if a Minister of the Crown –

- (a) proposes to make a statutory instrument, whether under this Act or any other Act of Parliament, to which paragraph 1(3), 6(3), 7(3), or 11 applies or which has the same purpose as an instrument to which those paragraphs apply, and
- (b) is of the opinion that the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament (“the negative procedure”).

(2) Before making the instrument, the Minister must lay before both Houses of Parliament a draft of the instrument together with a memorandum setting out the reasons for the Minister’s opinion that the instrument should be subject to the negative procedure.

(3) The negative procedure applies unless within the relevant period either House of Parliament requires the affirmative procedure to apply, in which case the affirmative procedure applies.

(4) A House of Parliament is taken to have required the affirmative procedure to apply within the relevant period if –

- (a) a committee of the House charged with reporting on the instrument has recommended, within the period of 10 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House, that the affirmative procedure should apply, and
- (b) that House has not by resolution rejected the recommendation within a period of 5 sitting days beginning with the first sitting day after the day on which the recommendation is made, or

- (c) irrespective of the committee reporting on the instrument, that House has resolved, within the period of 15 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House, that the affirmative procedure should apply to the instrument.
- (5) For the purposes of this paragraph –
 - (a) where an instrument is subject to the affirmative procedure, it may not be made unless the draft of the instrument laid under sub-paragraph (2) has been approved by a resolution of each House of Parliament,
 - (b) “sitting day” means, in respect of either House, a day on which that House sits.
- (6) Nothing in this paragraph prevents a Minister of the Crown from deciding, at any time before a statutory instrument mentioned in sub-paragraph (1)(a) is made, that another procedure should apply in relation to the instrument.”

111 Page 45, line 23, at end insert –

“Committee of the National Assembly for Wales to sift certain regulations involving Welsh Ministers

- 3A (1) Sub-paragraph (2) applies if the Welsh Ministers are to make a statutory instrument to which paragraph 1(9) applies and are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (2) The Welsh Ministers may not make the instrument so that it is subject to that procedure unless –
 - (a) condition 1 is met, and
 - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that the Welsh Ministers –
 - (a) have made a statement in writing to the effect that in their opinion the instrument should be subject to annulment in pursuance of a resolution of the National Assembly for Wales, and
 - (b) have laid before the Assembly –
 - (i) a draft of the instrument, and
 - (ii) a memorandum setting out the statement and the reasons for the Welsh Ministers’ opinion.
- (4) Condition 2 is that a committee of the National Assembly for Wales charged with doing so has made a recommendation as to the appropriate procedure for the instrument.
- (5) Condition 3 is that the period of 14 days beginning with the first day after the day on which the draft instrument was laid before the National Assembly for Wales as mentioned in sub-paragraph (3) has ended without any recommendation being made as mentioned in sub-paragraph (4).

- (6) In calculating the period of 14 days, no account is to be taken of any time during which the National Assembly for Wales is –
 - (a) dissolved, or
 - (b) in recess for more than four days.
- (7) Nothing in this paragraph prevents the Welsh Ministers from deciding at any time before a statutory instrument to which paragraph 1(9) applies is made that another procedure should apply to the instrument (whether under paragraph 1(9) or 4B).
- (8) Section 6(1) of the Statutory Instruments Act 1946 as applied by section 11A of that Act (alternative procedure for certain instruments laid in draft before the Assembly) does not apply in relation to any statutory instrument to which this paragraph applies.
- (9) The references in this paragraph to paragraph 1(9) do not include references to paragraph 1(9) as applied by paragraph 7(5) (for which see paragraph 13A)."

112 Page 45, line 38, leave out “one month” and insert “28 days”

113 Page 45, line 42, leave out “one month” and insert “28 days”

114 Page 46, line 14, at end insert –

“Scrutiny procedure in certain urgent cases: devolved authorities

- 4A (1) This paragraph applies to –
- (a) regulations to which paragraph 1(6) applies, or
 - (b) regulations to which paragraph 1(7) applies which would not otherwise be made without being subject to the affirmative procedure.
- (2) The regulations may be made without being subject to the affirmative procedure if the regulations contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to that procedure.
 - (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Scottish Parliament.
 - (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.
 - (5) In calculating the period of 28 days, no account is to be taken of any time during which the Scottish Parliament is –
 - (a) dissolved, or
 - (b) in recess for more than four days.
 - (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not –
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.

- (7) The references in this paragraph to paragraph 1(6) or (7) do not include references to paragraph 1(6) or (7) as applied by paragraph 7(5) (for which see paragraph 14(6A)).
- 4B (1) Sub-paragraph (2) applies to—
- (a) a statutory instrument to which paragraph 1(8) applies, or
 - (b) a statutory instrument to which paragraph 1(9) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales.
- (2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales if it contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After an instrument is made in accordance with sub-paragraph (2), it must be laid before the National Assembly for Wales.
- (4) Regulations contained in an instrument made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the National Assembly for Wales is—
- (a) dissolved, or
 - (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 1(9) applies where the Welsh Ministers are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) Paragraph 3A does not apply in relation to the instrument if the instrument contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph.
- (9) The references in this paragraph to paragraph 1(8) or (9) do not include references to paragraph 1(8) or (9) as applied by paragraph 7(5) (for which see paragraph 14(6A)).
- 4C (1) This paragraph applies to—
- (a) regulations to which paragraph 1(10) applies, or
 - (b) regulations to which paragraph 1(11) applies which would not otherwise be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly.

- (2) The regulations may be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly if they contain a declaration that the Northern Ireland department concerned is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Northern Ireland Assembly.
- (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Northern Ireland Assembly is –
 - (a) dissolved,
 - (b) in recess for more than four days, or
 - (c) adjourned for more than six days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not –
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (7) The references in this paragraph to paragraph 1(10) or (11) do not include references to paragraph 1(10) or (11) as applied by paragraph 7(5) (for which see paragraph 14(6A)).”

- 115 Page 46, line 22, leave out paragraph 6
- 116 Page 47, line 14, leave out paragraphs (a) and (b)
- 117 Page 47, line 22, leave out “imposes, or otherwise”
- 118 Page 47, line 24, at end insert “or”
- 119 Page 47, line 25, leave out from “legislate” to end of line 26
- 120 Page 47, line 37, at end insert –

“Power to repeal provisions relating to retained EU law restrictions

7A A statutory instrument containing regulations under section 11(4B) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

- 121 Page 47, line 40, leave out “paragraph 1 of”
- 122 Page 47, line 40, leave out “falling within sub-paragraph (2)” and insert “which does not relate to altering the amount of a fee or charge to reflect changes in the value of money”
- 123 Page 47, line 43, leave out sub-paragraph (2)
- 124 Page 48, line 14, leave out from “under” to end of line 15 and insert “Schedule 4 which does not relate to altering the amount of a fee or charge to reflect changes in the value of money.”

- 125 Page 48, line 21, leave out paragraph 10 and insert—
“Power to appoint “exit day”
- 10 A statutory instrument containing regulations under section 14 which appoint a day as exit day may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- 126 Page 48, line 26, after “is” insert “(if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament)”
- 127 Page 48, line 27, at end insert—
“ (2) See paragraph 13 for restrictions on the choice of procedure under subparagraph (1).”
- 128 Page 49, line 4, leave out paragraph 13
- 129 Page 49, line 35, at end insert—
“Committee of the National Assembly for Wales to sift certain regulations involving Welsh Ministers
- 13A Paragraph 3A applies to regulations under Part 3 of Schedule 2 as it applies to regulations under Part 1 of that Schedule but as if—
(a) the references to paragraph 1(9) were references to paragraph 1(9) as applied by paragraph 7(5),
(b) the reference to paragraph 4B were a reference to that paragraph as applied by paragraph 14(6A), and
(c) paragraph 3A(9) were omitted.”
- 130 Page 49, line 38, leave out “, 6(1)”
- 131 Page 49, line 40, leave out “6(3),”
- 132 Page 49, line 40, leave out “or 8(3)” and insert “, 8(3) or 11”
- 133 Page 50, line 9, leave out “one month” and insert “28 days”
- 134 Page 50, line 13, leave out “one month” and insert “28 days”
- 135 Page 50, line 21, at end insert—
“ (6A) Paragraphs 4A to 4C apply to regulations under Part 3 of Schedule 2 as they apply to regulations under Part 1 of that Schedule but as if—
(a) the references to paragraphs 1(6), (7), (8), (9), (10) or (11) were references to those provisions as applied by paragraph 7(5),
(b) the reference in paragraph 4B(8) to paragraph 3A were a reference to that paragraph as applied by paragraph 13A, and
(c) paragraphs 4A(7), 4B(9) and 4C(7) were omitted.”
- 136 Page 50, line 22, leave out “6(3) or”
- 137 Page 50, line 23, after “7(3)” insert “or 11”

138 Page 51, line 42, at end insert—

“Anticipatory exercise of powers in relation to retained EU law

18A Any power to make regulations under this Act which modify retained direct EU legislation, anything which is retained EU law by virtue of section 4 or any other retained EU law is capable of being exercised before exit day so that the regulations to come into force on or after exit day.”

139 Page 52, line 16, leave out “, 8”

140 Page 52, line 16, leave out “or 9” and insert “, 9 or 17(1)”

141 Page 52, line 16, after “9” insert “or paragraph 1(2) or 21(2) of Schedule 2”

142 Page 52, line 17, leave out “or before the House of Commons only”

143 Page 52, line 20, at end insert—

“ (2A) Before the instrument or draft is laid, the relevant Minister must make a statement as to why, in the Minister’s opinion—
 (a) there are good reasons for the instrument or draft, and
 (b) the provision made by the instrument or draft is a reasonable course of action.”

144 Page 52, line 35, leave out “the reasons for it” and insert “its purpose”

145 Page 52, line 37, at end insert—

“ () Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (2A) must (among other things) include an explanation of why, in the relevant Minister’s opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.”

146 Page 52, line 39, after “(2),” insert “(2A),”

147 Page 53, line 1, after “(2),” insert “(2A),”

148 Page 53, line 10, leave out “or before the House of Commons only”

149 Page 53, line 16, at end insert—

“22ZA(1) This paragraph applies where—
 (a) a Scottish statutory instrument containing regulations under Part 1 or 3 of Schedule 2, or
 (b) a draft of such an instrument,
 is to be laid before the Scottish Parliament.
 (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that in the Scottish Ministers’ opinion the instrument or draft does no more than is appropriate.
 (3) Before the instrument or draft is laid, the Scottish Ministers must make a statement as to why, in the Scottish Ministers’ opinion—
 (a) there are good reasons for the instrument or draft, and
 (b) the provision made by the instrument or draft is a reasonable course of action.”

- (4) Before the instrument or draft is laid, the Scottish Ministers must make a statement –
 - (a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and
 - (b) if it does, explaining the effect of each such amendment, repeal or revocation.
- (5) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that, in relation to the instrument or draft, the Scottish Ministers have, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (6) Before the instrument or draft is laid, the Scottish Ministers must make a statement otherwise explaining –
 - (a) the instrument or draft,
 - (b) its purpose,
 - (c) the law before exit day which is relevant to it, and
 - (d) its effect (if any) on retained EU law.
- (7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the Scottish Ministers’ opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.
- (8) If the Scottish Ministers fail to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.
- (9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
- (10) In this paragraph “equalities legislation” means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts.”

150

Page 53, line 16, at end insert –

“Further explanatory statements in certain sub-delegation cases

- 22A (1) This paragraph applies where –
- (a) a statutory instrument containing regulations under section 7(1) or 9 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or
 - (b) a draft of such an instrument,
- is to be laid before each House of Parliament.
- (2) Before the instrument or draft is laid, the relevant Minister must make a statement explaining why it is appropriate to create a relevant sub-delegated power.

- (3) If the relevant Minister fails to make a statement required by sub-paragraph (2) before the instrument or draft is laid, a Minister of the Crown must make a statement explaining why the relevant Minister has failed to do so.
- (4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (5) Sub-paragraphs (8) and (9) of paragraph 22 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- (6) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to—
- (a) amending a power to legislate which is exercisable by statutory instrument by a relevant UK authority so that it becomes a relevant sub-delegated power, or
 - (b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.
- (7) In this paragraph—
- “the relevant Minister” means the Minister of the Crown who makes, or is to make, the instrument;
- “relevant sub-delegated power” means a power to legislate which—
- (a) is not exercisable by any of the following—
 - (i) statutory instrument,
 - (ii) Scottish statutory instrument, or
 - (iii) statutory rule, or
 - (b) is so exercisable by a public authority other than a relevant UK authority;
- “relevant UK authority” means a Minister of the Crown, a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or a Northern Ireland devolved authority.”

151

Page 53, line 16, at end insert—

- “22AA(1) This paragraph applies where—
- (a) a Scottish statutory instrument containing regulations under Part 1 or 3 of Schedule 2 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or
 - (b) a draft of such an instrument,
is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why it is appropriate to create a relevant sub-delegated power.
- (3) If the Scottish Ministers fail to make a statement required by sub-paragraph (2) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.

- (4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
- (5) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to—
 - (a) amending a power to legislate which is exercisable by Scottish statutory instrument by a member of the Scottish Government so that it becomes a relevant sub-delegated power, or
 - (b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.
- (6) In this paragraph “relevant sub-delegated power” means a power to legislate which—
 - (a) is not exercisable by Scottish statutory instrument, or
 - (b) is so exercisable by a public authority other than a member of the Scottish Government.”

152 Page 53, line 16, at end insert—

“Annual reports in certain sub-delegation cases

- 22B (1) Each person by whom a relevant sub-delegated power is exercisable by virtue of regulations made by a Minister of the Crown under section 7(1) or 9 or paragraph 1 of Schedule 4 must—
- (a) if the power has been exercised during a relevant year, and
 - (b) as soon as practicable after the end of the year,
- prepare a report on how the power has been exercised during the year.
- (2) The person must—
- (a) lay the report before each House of Parliament, and
 - (b) once laid—
 - (i) provide a copy of it to a Minister of the Crown, and
 - (ii) publish it in such manner as the person considers appropriate.
- (3) In this paragraph—
- “relevant sub-delegated power” has the same meaning as in paragraph 22A;
- “relevant year” means—
- (a) in the case of a person who prepares an annual report, the year by reference to which the report is prepared, and
 - (b) in any other case, the calendar year.”

153 Page 53, line 16, at end insert—

- “22BA(1) Each person by whom a relevant sub-delegated power is exercisable by virtue of regulations made by the Scottish Ministers by Scottish statutory instrument under Part 1 or 3 of Schedule 2 or paragraph 1 of Schedule 4 must—
- (a) if the power has been exercised during a relevant year, and
 - (b) as soon as practicable after the end of the year,
- prepare a report on how the power has been exercised during the year.

- (2) The person must –
 - (a) lay the report before the Scottish Parliament, and
 - (b) once laid –
 - (i) send a copy of it to the Scottish Ministers, and
 - (ii) publish it in such manner as the person considers appropriate.
- (3) In this paragraph –
 - “relevant sub-delegated power” has the same meaning as in paragraph 22AA;
 - “relevant year” means –
 - (a) in the case of a person who prepares an annual report, the year by reference to which the report is prepared, and
 - (b) in any other case, the calendar year.”

154 Page 53, line 16, at end insert –

“Further explanatory statements in urgency cases

- 22C (1) This paragraph applies where a statutory instrument containing regulations under this Act is to be made by virtue of paragraph 4(2) or 14(2).
- (2) The Minister of the Crown who is to make the instrument must make a statement in writing explaining the reasons for the Minister’s opinion that, by reason of urgency, it is necessary to make the regulations without a draft of the instrument containing them being laid before, and approved by a resolution of, each House of Parliament.
 - (3) A statement under sub-paragraph (2) must be published before, or at the same time as, the instrument as made is laid before each House of Parliament.
 - (4) If the Minister –
 - (a) fails to make the statement required by sub-paragraph (2) before the instrument is made, or
 - (b) fails to publish it as required by sub-paragraph (3),
 a Minister of the Crown must make a statement explaining the failure.
 - (5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.
 - (6) For the purposes of this paragraph, where an instrument is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.”

155 Page 53, line 16, at end insert –

- “22D(1) This paragraph applies where regulations are to be made by the Scottish Ministers under this Act by virtue of paragraph 4A(2) (whether or not as applied by paragraph 14(6A)).
- (2) The Scottish Ministers must make a statement in writing explaining the reasons for the Scottish Ministers’ opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to the affirmative procedure.

- (3) A statement under sub-paragraph (2) must be published before, or at the same time as, the regulations as made are laid before the Scottish Parliament.
- (4) If the Scottish Ministers –
 - (a) fail to make the statement required by sub-paragraph (2) before the regulations are made, or
 - (b) fail to publish it as required by sub-paragraph (3),they must make a statement explaining the failure.
- (5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.”

156 Page 53, line 23, leave out paragraph 24 and insert –

- “24 (1) A power to make regulations which, under this Schedule, is capable of being exercised subject to different procedures may (in spite of section 14 of the Interpretation Act 1978) be exercised, when revoking, amending or re-enacting an instrument made under the power, subject to a different procedure from the procedure to which the instrument was subject.
- (2) For the purposes of sub-paragraph (1) in its application to regulations under section 17(5) no procedure is also a procedure.”

157 Page 53, line 35, leave out “that requires” and insert “for”

158 Page 54, line 20, after “Act” insert “(and, accordingly, references in this Schedule to an instrument containing regulations are to be read as references to an instrument containing (whether alone or with other provision) regulations)”

Schedule 8

159 Page 55, line 33, leave out paragraph 3 and insert –

- “3A (1) Any power to make, confirm or approve subordinate legislation which –
- (a) was conferred before the day on which this Act is passed, and
 - (b) is capable of being exercised to amend or repeal (or, as the case may be, result in the amendment or repeal of) an enactment contained in primary legislation,
- is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct EU legislation or anything which is retained EU law by virtue of section 4.
- (2) But sub-paragraph (1) does not apply if the power to make, confirm or approve subordinate legislation is only capable of being exercised to amend or repeal (or, as the case may be, result in the amendment or repeal of) an enactment contained in Northern Ireland legislation which is an Order in Council.
- 3B (1) Any subordinate legislation which –
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) amends or revokes any retained direct principal EU legislation,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or repealing an enactment contained in primary legislation.

- (2) Any subordinate legislation which—
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) either—
 - (i) modifies (otherwise than as a connected modification and otherwise than by way of amending or revoking it) any retained direct principal EU legislation, or
 - (ii) modifies (otherwise than as a connected modification) anything which is retained EU law by virtue of section 4,
 is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or repealing an enactment contained in primary legislation.
- (3) Any subordinate legislation which—
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) amends or revokes any retained direct minor EU legislation,
- is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.
- (4) Any subordinate legislation which—
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) modifies (otherwise than as a connected modification and otherwise than by way of amending or revoking it) any retained direct minor EU legislation,
- is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.
- (5) Any subordinate legislation which—
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) modifies as a connected modification any retained direct EU legislation or anything which is retained EU law by virtue of section 4,
- is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to the modification to which it is connected.
- (6) Any provision which may be made, confirmed or approved by virtue of paragraph 3A may be included in the same instrument as any other provision which may be so made, confirmed or approved.

- (7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.
- (8) The order of procedures is as follows (the highest first) –
- (a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
 - (b) a procedure which requires the approval of the instrument in draft before it is made,
 - (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
 - (d) a procedure which provides for the annulment of the instrument after it is made,
 - (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
 - (f) no procedure.
- (9) The references in this paragraph to amending or repealing an enactment contained in primary legislation or amending or revoking an enactment contained in subordinate legislation do not include references to amending or repealing or (as the case may be) amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.
- (10) In this paragraph “connected modification” means a modification which is supplementary, incidental, consequential, transitional or transitory, or a saving, in connection with –
- (a) another modification under the power of retained direct EU legislation or anything which is retained EU law by virtue of section 4, or
 - (b) anything else done under the power.
- 3C (1) This paragraph applies to any power to make, confirm or approve subordinate legislation –
- (a) which was conferred before the day on which this Act is passed, and
 - (b) is not capable of being exercised as mentioned in paragraph 3A(1)(b) or is only capable of being so exercised in relation to Northern Ireland legislation which is an Order in Council.
- (2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read –
- (a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
 - (b) so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct minor EU legislation.

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- (3) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) –
- (a) any retained direct principal EU legislation, or
 - (b) anything which is retained EU law by virtue of section 4,
- so far as the modification is supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation by virtue of sub-paragraph (2).
- (4) Any power to which this paragraph applies so far as it is a power to make, confirm or approve transitional, transitory or saving provision is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) –
- (a) any retained direct EU legislation, or
 - (b) anything which is retained EU law by virtue of section 4.
- 3D Any subordinate legislation which is, or is to be, made, confirmed or approved by virtue of paragraph 3C(2), (3) or (4) is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were doing anything else under the power.
- 3E Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read on or after exit day without that restriction or any corresponding restriction in relation to compatibility with retained EU law.
- 3F (1) Paragraphs 3A to 3E and this paragraph –
- (a) do not prevent the conferral of wider powers,
 - (b) do not apply so far as section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or section 24(3) of the Northern Ireland Act 1998 applies (or would apply when in force on and after exit day), and
 - (c) are subject to any other provision made by or under this Act or any other enactment.
- (2) For the purposes of paragraphs 3A and 3C –
- (a) a power is conferred whether or not it is in force, and
 - (b) a power in retained direct EU legislation is not conferred before the day on which this Act is passed.
- (3) A power which, by virtue of paragraph 3A or 3C or any Act of Parliament passed before, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before exit day so as to come into force on or after exit day.”

Page 56, line 26, leave out paragraph 5 and insert –

- “5A (1) This paragraph applies to any power to make, confirm or approve subordinate legislation which is conferred on or after the day on which this Act is passed.
- (2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) may –
- (a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
 - (b) so far as applicable and unless the contrary intention appears, be exercised to modify (or, as the case may be, result in the modification of) any retained direct minor EU legislation.
- (3) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) may, so far as applicable and unless the contrary intention appears, be exercised to modify (or, as the case may be, result in the modification of) –
- (a) any retained direct principal EU legislation, or
 - (b) anything which is retained EU law by virtue of section 4,
- so far as the modification is supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation by virtue of sub-paragraph (2).
- (4) Any power to which this paragraph applies so far as it is a power to make, confirm or approve transitional, transitory or saving provision may, so far as applicable and unless the contrary intention appears, be exercised to modify (or, as the case may be, result in the modification of) –
- (a) any retained direct EU legislation, or
 - (b) anything which is retained EU law by virtue of section 4.
- 5B (1) Sub-paragraph (2) applies to any power to make, confirm or approve subordinate legislation which –
- (a) is conferred on or after the day on which this Act is passed, and
 - (b) is capable of being exercised to amend or revoke (or, as the case may be, result in the amendment or revocation of) any retained direct principal EU legislation.
- (2) The power may, so far as applicable and unless the contrary intention appears, be exercised –
- (a) to modify otherwise than by way of amendment or revocation (or, as the case may be, result in such modification of) any retained direct principal EU legislation, or
 - (b) to modify (or, as the case may be, result in the modification of) anything which is retained EU law by virtue of section 4.
- 5C (1) Paragraphs 5A and 5B and this paragraph –
- (a) do not prevent the conferral of wider powers,
 - (b) do not apply so far as section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or section 24(3) of the Northern Ireland Act 1998 applies (or would apply when in force on and after exit day), and
 - (c) are subject to any other provision made by or under this Act or any other enactment.

- (2) For the purposes of paragraphs 5A and 5B—
 - (a) a power is conferred whether or not it is in force,
 - (b) a power in retained direct EU legislation is conferred on or after the day on which this Act is passed, and
 - (c) the references to powers conferred include powers conferred by regulations under this Act (but not powers conferred by this Act).
- (3) A power which, by virtue of paragraph 5A or 5B or any Act of Parliament passed after, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before exit day so as to come into force on or after exit day.”

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Page 56, line 32, at end insert—

“Explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the ECA

- 5D (1) This paragraph applies where, on or after exit day—
- (a) a statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or
 - (b) a draft of such an instrument,
- is to be laid before each House of Parliament or before the House of Commons only.
- (2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.
 - (3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining—
 - (a) the law which is relevant to the amendment or revocation, and
 - (b) the effect of the amendment or revocation on retained EU law.
 - (4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid—
 - (a) a Minister of the Crown, or
 - (b) where the relevant authority is not a Minister of the Crown, the relevant authority,
 must make a statement explaining why the relevant authority has failed to make the statement as so required.
 - (5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the person making it considers appropriate.
 - (6) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
 - (7) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after exit day including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).

- (8) This paragraph does not apply in relation to any laying before each House of Parliament, or before the House of Commons only, of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses or before the House of Commons only.
- (9) In this paragraph “the relevant authority” means –
- (a) in the case of an Order in Council or Order of Council, the Minister of the Crown who has responsibility in relation to the instrument,
 - (b) in the case of any other statutory instrument which is not made by a Minister of the Crown, the person who makes, or is to make, the instrument, and
 - (c) in any other case, the Minister of the Crown who makes, or is to make, the instrument.”

162 Page 56, line 32, at end insert –

- “5E (1) This paragraph applies where, on or after exit day –
- (a) a Scottish statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or
 - (b) a draft of such an instrument,
- is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.
- (3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining –
- (a) the law which is relevant to the amendment or revocation, and
 - (b) the effect of the amendment or revocation on retained EU law.
- (4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid, the relevant authority must make a statement explaining why the relevant authority has failed to make the statement as so required.
- (5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the relevant authority considers appropriate.
- (6) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after exit day including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).
- (7) In this paragraph “the relevant authority” means –
- (a) in the case of a Scottish statutory instrument which is not made by the Scottish Ministers, other than an Order in Council, the person who makes, or is to make, the instrument, and
 - (b) in any other case, the Scottish Ministers.”

163 Page 59, line 31, after “law” insert “, “retained direct minor EU legislation”, “retained direct principal EU legislation””

164 Page 59, line 33, after “6(7)” insert “, (*Status of retained EU law*)(6)”

- 165 Page 60, line 38, leave out “29(4A)” and insert “30A(1)”
- 166 Page 61, line 2, at beginning insert “This paragraph has effect”
- 167 Page 61, line 2, leave out from “1998” to end of line 4 and insert –
 “() Any retained direct principal EU legislation is to be treated as primary legislation.
 () Any retained direct minor EU legislation is to be treated as primary legislation so far as it amends any primary legislation but otherwise is to be treated as subordinate legislation.”
- 168 Page 61, line 5, leave out “sub-paragraph (1)” and insert “this paragraph “amend”,”
- 169 Page 61, line 33, at end insert –
 “21A In section 30 (other instruments laid before the Scottish Parliament), after subsection (6), insert –
 “(7) This section does not apply in relation to any regulations made in accordance with paragraph 4A of Schedule 7 to the European Union (Withdrawal) Act 2018 (including that paragraph as applied by paragraph 14(6A) of that Schedule).””
- 170 Page 64, line 29, at end insert –
 “(7) Paragraph 4 of Schedule 1 does not apply in relation to any proceedings begun within the period of two years beginning with exit day so far as the proceedings relate to anything which occurred before exit day.”
- 171 Page 64, line 31, leave out “ , 8”
- 172 Page 64, line 31, leave out “or 9” and insert “ , 9 or 17(1)”
- 173 Page 64, line 40, leave out “and in force”
- 174 Page 64, line 40, leave out from “day,” to end of line 42 and insert –
 “(b) any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before exit day, or
 (c) any other subordinate legislation made before exit day.”
- 175 Page 64, line 43, leave out “(5) and”
- 176 Page 64, line 44, leave out “or (b)” and insert “ , (b) or (c)”
- 177 Page 65, line 6, at end insert “and”
- 178 Page 65, line 7, leave out from “there” to “when” in line 10 and insert “are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”
- 179 Page 65, line 12, leave out from “provision” to “in” and insert “were made and the regulations were”
- 180 Page 65, line 19, at end insert “and”
- 181 Page 65, line 20, leave out from “there” to “when” in line 23 and insert “are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”

- 182 Page 65, line 25, leave out from “provision” to “in” and insert “were made and the regulations were”
- 183 Page 65, line 32, at end insert “and”
- 184 Page 65, line 33, leave out from “there” to “when” in line 36 and insert “are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”
- 185 Page 65, line 38, leave out from “provision” to “in” and insert “were made and the regulations were”
- 186 Page 65, line 43, at end insert “and”
- 187 Page 65, line 44, leave out from “there” to “when” in line 47 and insert “are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”
- 188 Page 66, line 3, leave out “Order was made and” and insert “regulations were”
- 189 Page 66, line 7, at end insert “and”
- 190 Page 66, line 8, leave out from “there” to “, so” in line 11 and insert “are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”
- 191 Page 66, line 18, leave out “Order was made and” and insert “regulations were”
- 192 Page 66, line 22, at end insert “and”
- 193 Page 66, line 23, leave out from “there” to “when” in line 26 and insert “are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”
- 194 Page 66, line 32, leave out “Order was made and” and insert “regulations were”
- 195 Page 66, line 32, at end insert –
 “() For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in –
 (a) sections 30A(1) and 57(4) of the Scotland Act 1998,
 (b) sections 80(8) and 109A(1) of the Government of Wales Act 2006, and
 (c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998, come into force on exit day.”
- 196 Page 66, line 43, at end insert –
 “30A A consent decision of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly made before the day on which this Act is passed, or the commencement of the 40-day period before the day on which this Act is passed, is as effective for the purposes of –
 (a) section 30A(3) or 57(6) of the Scotland Act 1998,
 (b) section 80(8C) or 109A(4) of the Government of Wales Act 2006, or
 (c) section 6A(3) or 24(5) of the Northern Ireland Act 1998,

as a consent decision made, or (as the case may be) the commencement of that period, on or after that day.”

LORDS AMENDMENTS TO THE
EUROPEAN UNION (WITHDRAWAL)
BILL

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