The amendments have been marshalled in accordance with the Order of 23rd February 2016, as follows—

Clauses 1 to 12
Clauses 34 to 41
Schedule 2
Clauses 42 to 64
Clauses 13 to 18
Schedule 1
Clauses 19 to 33
Clauses 65 to 70
Title

[Amendments marked ★ are new or have been altered]

Amendment No.

Clause 1

LORD FORSYTH OF DRUMLEAN

1★ Page 1, line 9, after “are” insert “recognised as”

LORD HOPE OF CRAIGHEAD
LORD NORTON OF LOUTH

2★ Page 1, leave out lines 15 to 17 and insert—

“( ) Subsection (1) may only be repealed if—
(a) the Scottish Parliament has consented to the proposed repeal; and
(b) a referendum has been held in Scotland on the proposed repeal and a majority of those voting in the referendum have consented to it.”

LORD CORMACK

3★ Page 1, line 17, leave out from first “of” to end and insert “a two-thirds majority in a vote of the House of Commons in which 75 per cent of the members elected by Scottish constituencies voted for abolition.”
Clause 1 — continued

LORD FORSYTH OF DRUMLEAN

4★ Page 1, line 17, leave out “Scotland” and insert “the United Kingdom”

5★ Page 1, line 17, at end insert—

“( ) Nothing in this section alters the sovereignty of the United Kingdom Parliament.”

LORD NORTON OF LOUTH

6★ Leave out Clause 1 and insert the following new Clause—

“Scottish Parliament and Government

(1) Sections 1(1) (The Scottish Parliament) and 44(1) (The Scottish Government) of the Scotland Act 1998 shall not be repealed unless a majority of electors in Scotland have consented to such a repeal in a referendum.

(2) Those entitled to vote in such a referendum shall be the persons who, on the date of the referendum, would be entitled to vote as electors at a local government election in Scotland.”

Clause 2

LORD HOPE OF CRAIGHEAD
LORD NORTON OF LOUTH

7★ Page 2, leave out lines 5 to 7 and insert—

“(8) But the Parliament of the United Kingdom may not pass any measure applying to Scotland that makes provision about a devolved matter without the consent of the Scottish Parliament.

(9) A provision is about a devolved matter if the provision—

(a) applies to Scotland and does not relate to reserved matters,

(b) modifies the legislative competence of the Scottish Parliament, or

(c) modifies the functions of any member of the Scottish Government.

(10) In subsection (8), “measure” includes any Act, whether a public general Act, a local and personal Act or a private Act, and any statutory or other instrument made under an enactment.”

LORD CORMACK
LORD McCLUSKEY

8★ Page 2, line 6, leave out “normally”
Amendment No.

Clause 2—continued

LORD WALLACE OF TANKERNESS
LORD STEPHEN

9★ Page 2, line 6, after “legislate” insert “—

(a) ”

10★ Page 2, line 6, after “matters” insert “, or

(b) to alter the legislative competence of the Scottish Parliament
or the executive competence of the Scottish Ministers,”

LORD FORSYTH OF DRUMLEAN

11★ Page 2, line 6, leave out “without the consent of the Scottish Parliament”

LORD McCLUSKEY

12★ Page 2, line 7, at end insert “but the decision as to whether or not the circumstances are such as to allow the Parliament of the United Kingdom to legislate with regard to any devolved matter shall be a decision for that Parliament to take, and shall not be justiciable in any court of law”

LORD WALLACE OF TANKERNESS
LORD STEPHEN

13★ Page 2, line 7, at end insert—

“(9) The application of subsection (8) shall not be questioned in any court of law.”

After Clause 2

THE EARL OF DUNDEE
THE EARL OF KINNOULL

14★ Insert the following new Clause—

“Cooperation between the Scottish and United Kingdom institutions: reporting

(1) Within a year of the passing of this Act, and annually thereafter, Scottish Ministers and the Secretary of State must review the level of cooperation between the Scottish institutions and the United Kingdom institutions following devolution, and prepare a report.

(2) In the review under subsection (1), Scottish Ministers and the Secretary of State must consult such persons as they consider appropriate, taking into account—

(a) the level of transparency and sharing of information between the Scottish institutions and the United Kingdom institutions;

(b) the level of cooperation between the Scottish institutions and the United Kingdom institutions; and

(c) the sharing of examples of best practice between the Scottish institutions and the United Kingdom institutions.
(3) Scottish Ministers and the Secretary of State must lay a copy of the report prepared under subsection (1) before the Scottish Parliament and the United Kingdom Parliament.

(4) In this section, “Scottish institutions” means—
(a) the Scottish Government,
(b) the Scottish Parliament, and
(c) Scottish authorities to which power is transferred under this Act.

(5) In this section “United Kingdom institutions” means—
(a) the Government of the United Kingdom,
(b) the Parliament of the United Kingdom, and
(c) United Kingdom authorities from which power is transferred under this Act.”

Clause 3

LORD DUNLOP

15★ Page 2, leave out lines 17 and 18 and insert—
“( ) Omit the words from “The franchise at local government elections” to the end of the Exceptions and insert—”

16★ Page 3, leave out line 35 and insert—
“( ) In the Interpretation provision, omit the definitions of “Digital service” and “Ordinary local election” and insert—”

Clause 5

LORD DUNLOP

17★ Page 5, line 27, leave out “from the words” and insert “for the words from”

18★ Page 6, line 4, at end insert—
“( ) Omit subsections (5A) to (5C).”

Clause 10

LORD DUNLOP

19★ Page 11, line 29, at end insert “and (2C) (date of elections to the Parliament).”

20★ Page 11, line 32, leave out subsection (7)

21★ Page 11, line 35, leave out “is revoked” and insert “and the Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 (S.I. 2015/1764) are revoked.”
Amendment No. Clause 11

LORD FORSYTH OF DRUMLEAN

22★ Page 12, line 26, leave out from “unless” to end of line 28 and insert “, having been approved at the final stage by the Scottish Parliament, it is then approved by a resolution of each House of the Parliament of the United Kingdom”

LORD DUNLOP

23★ Page 12, line 33, after “decided” insert “on”

24★ Page 12, line 34, after “32A(2)(b)” insert “that any provision of the Bill relates to a protected subject-matter”

25★ Page 13, line 25, after “decides” insert “on”

26★ Page 13, line 26, after “32A(2)(b)” insert “that any provision of the Bill relates to a protected subject-matter”

After Clause 12

LORD FORSYTH OF DRUMLEAN

27★ Insert the following new Clause—

“Convention

The Secretary of State shall establish a convention to assess the impact of the provisions of this Act on the relationship between the United Kingdom and Scotland; and to make recommendations designed to secure a stable settlement between the United Kingdom and Scotland.”

Clause 34

LORD WALLACE OF TANKERNESS
LORD STEPHEN
THE EARL OF KINNOULL
THE EARL OF DUNDEE

28★ Page 35, line 29, at end insert—

“90C The Crown Estate—Island Authorities

(1) The scheme under section 90B of the Scotland Act 1998 shall make provision for the Scottish Ministers to transfer to the management of each of Shetland Islands Council, Orkney Islands Council and Comhairle nan Eilean Siar (“the island authorities”) on the islands transfer date all the existing Scottish functions of the Commissioners relating to those parts of the Scottish zone surrounding each of the island authorities.”
Clause 34—continued

(2) The exact extent of the parts of the Scottish zone to be transferred under subsection (1) will be agreed by the Treasury and Scottish Ministers in consultation with the island authorities and in accordance with the general principles contained within the United Nations Convention on the Law of the Sea as they applied for the delineation of boundaries between States.

(3) In this section, “the islands transfer date” means a date no later than one year after the transfer date referred to in section 90B of the Scotland Act 1998.”

Clause 35

LORD WALLACE OF TANKERNESS
LORD STEPHEN
LORD McAVOY
LORD DAVIDSON OF GLEN CLOVA

29 Line 17, at end insert—

“Equal opportunities in relation to the Scottish functions of any Scottish public authority or cross-border public authority, including appointments to non-executive posts on boards of Scottish public authorities with mixed functions or no reserved functions. The provision falling within this exception includes provision that reproduces or applies an enactment made in or under the Equality Act 2010, with or without modification, without affecting the enactment as it applies for the purposes of that Act. It does not include any modification of that Act, or of any subordinate legislation made under it, except—

(a) provision that supplements or is otherwise additional to provision made by that Act that enhances, but does not diminish, the protection and promotion of equal opportunities afforded by the provision made by that Act;

(b) in particular, provision imposing a requirement to take action that the Act does not prohibit.”

LORD McAVOY
LORD DAVIDSON OF GLEN CLOVA

[Amendment 30 is an amendment to Amendment 29]

30 Line 17, at end insert—

“( ) provisions in relation to candidates at an election for membership of the Scottish Parliament or a local government election in Scotland.”
Amendment
No.  

Clause 35 — continued

LORD WALLACE OF TANKERNESS
LORD STEPHEN

31★ Page 37, line 33, at end insert—

“The subject-matter of sections 104 to 106 of the Equality Act 2010 (special provision for political parties) in relation to elections to the Scottish Parliament and local government elections in Scotland. This exception does not include making any modification to section 104(6) or (7) of the 2010 Act.”

LORD WALLACE OF TANKERNESS
LORD STEPHEN
LORD McAVOY
LORD DAVIDSON OF GLEN CLOVA

32★ Page 37, line 33, at end insert—

“The subject-matter of Part 11, Chapter 1 of the Equality Act 2010 (public sector equality duty).”

33★ Page 37, leave out lines 39 and 40

LORD WALLACE OF TANKERNESS
LORD STEPHEN

34★ Page 38, line 8, at end insert—

“( ) In section 105(2) (time-limited provision), after “Crown” insert “or, in relation to elections to the Scottish Parliament and local government elections in Scotland, Scottish Ministers,”.

( ) In section 106 (information about diversity in range of candidates, etc.), after subsection (11) insert—

“(12) The Scottish Ministers may by regulations prescribe matters under this section in respect of elections to the Scottish Parliament.”

( ) In section 216 (commencement)—

(a) at the beginning of subsection (3) insert “Subject to subsection (4),” and

(b) after subsection (3) insert—

“(4) Section 106, so far as it applies in respect of elections to the Scottish Parliament, comes into force on such day as the Scottish Ministers may by order appoint.”’”

Clause 38

LORD DUNLOP

35★ Page 41, line 28, leave out from “relating” to “to” in line 29

36★ Page 41, line 30, after first “the” insert “first”
Amendment No.

Clause 38 — continued

37★ Page 41, line 32, at end insert—

“’The subject-matter of the Road Traffic Act 1988 so far as relating to the parking of vehicles on roads.’

( ) At the end insert—’

38★ Page 41, line 35, leave out from second “as” to “(and” in line 36 and insert “substituted by section 19 of the Road Safety Act 2006 as at the date when section 38 of the Scotland Act 2016 comes into force, treating section 19 and any amendment affecting it at that date as if they were in force”

Clause 41

LORD DUNLOP

39★ Page 45, line 27, leave out subsections (3) to (6)

Schedule 2

LORD DUNLOP

40★ Page 85, line 20, at end insert—

“PART 2

EXERCISE OF POWERS BY AGREEMENT

Traffic signs powers

33 (1) Sub-paragraph (2) applies if the Secretary of State makes a statutory instrument revoking the following instruments in relation to England and Wales—

(a) the Zebra, Pelican and Puffin Pedestrian Crossing Regulations and General Directions 1997 (S.I. 1997/2400);
(b) the Traffic Signs (Temporary Obstructions) Regulations 1997 (S.I. 1997/3053);
(c) the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113).

(2) Despite anything in section 39 or 40 or Part 1 of this Schedule, the Secretary of State may by that instrument exercise one or more of the traffic signs powers to make provision in relation to roads in Scotland (including provision revoking one or more of the instruments mentioned in sub-paragraph (1) in relation to Scotland), with the consent of the Scottish Ministers.

(3) The traffic signs powers are—

(a) the power to make regulations under section 25 of the Road Traffic Regulation Act 1984 (pedestrian crossings);
(b) the power to make regulations under section 64 of that Act (traffic signs);
(c) the power to give general directions under section 65(1) of that Act (placing of traffic signs);
(d) the power to give general directions under section 85(2) of that Act (traffic signs for indicating speed restrictions); 
(e) the power to make regulations under section 36(5) of the Road Traffic Act 1988 (traffic signs: discretionary disqualification for failure to comply).

(4) The Secretary of State may exercise a power in any way by virtue of this paragraph only if the Secretary of State could have exercised it in that way but for the amendments made by sections 39 and 40 and Part 1 of this Schedule.

**Powers to exempt from speed limits**

34 (1) Sub-paragraph (2) applies in relation to the first statutory instrument made by the Secretary of State containing regulations under section 87(1)(b) of the Road Traffic Regulation Act 1984 as substituted by section 19 of the Road Safety Act 2006 (exemptions from speed limits: prescribed purposes and circumstances) in relation to vehicles used on roads in England.

(2) Despite anything in section 39 or 40 or Part 1 of this Schedule, the Secretary of State may by that instrument, with the consent of the Scottish Ministers—
(a) exercise the power under section 87(1)(b) of the Road Traffic Regulation Act 1984 to make provision in relation to vehicles used on roads in Scotland otherwise than in connection with reserved matters, and
(b) in connection with any provision made by virtue of paragraph (a), exercise one or more of the traffic signs powers mentioned in paragraph 33(3) to make provision in relation to roads in Scotland.

(3) The Secretary of State may exercise a power in any way by virtue of this paragraph only if the Secretary of State could have exercised it in that way but for the amendments made by sections 39 and 40 and Part 1 of this Schedule.”

**Clause 42**

**Amendment**

**No.**

41★ **Page 46, line 17, at end insert—**

“( ) There shall be an agreement between the British Transport Police Authority and the Scottish Government to ensure that the British Transport Police continues to police railways and railway property in Scotland.”
Clause 42—continued

LORD FAULKNER OF WORCESTER
LORD EMEPY
LORD FORSYTH OF DRUMLEAN
LORD WALLACE OF TANKERNESS

42★ Page 46, line 17, at end insert—

“(...) At the end of section 33(2) of the Railways and Transport Safety Act 2003 (police services agreement), insert “or, if the police services agreement applies in Scotland, by the Scottish Ministers”.”

Clause 43

LORD McAVOY
LORD DAVIDSON OF GLEN CLOVA

43★ Page 46, line 31, at end insert—

“(...) There shall be a joint board to examine the transfer, implementation and operation of the powers devolved to the Scottish Parliament under this section.

(...) The joint board shall be responsible for ensuring full cooperation, consultation and information-sharing between the United Kingdom Government, the Scottish Government and relevant stakeholders in relation to those powers.

(...) The joint board shall publish a report on matters relating to the transfer and implementation of the powers devolved to the Scottish Parliament under this section, with particular reference to security issues, every three months for the first three years from the date on which this Act is passed.”

After Clause 43

LORD EMEPY
THE EARL OF KINNOULL

44★ Insert the following new Clause—

“Oversight arrangements for the British Transport Police in Scotland

(1) The Chief Constable of the British Transport Police (“the Chief Constable”) shall appear before the Scottish Police Authority Board on request (including at urgent meetings, with reasonable notice).

(2) The Chief Constable shall appear before the Justice Committee of the Scottish Parliament (or any successor Committee fulfilling the functions of that Committee) on request (including at urgent meetings, with reasonable notice).

(3) The Chief Constable shall appear before the Cabinet Secretary for Justice in the Scottish Government on request, with reasonable notice.

(4) The Chief Constable shall present a report on the work of the British Transport Police in Scotland to the Scottish Ministers at least annually.
Amendment No.

**After Clause 43 — continued**

(5) The Chief Constable shall present a plan for the work of the British Transport Police in Scotland to the Scottish Police Authority Board at least annually, and a report on the work of the British Transport Police in Scotland to the Scottish Police Authority Board at least annually.

(6) The Chief Constable shall ensure that British Transport Police personnel exercising functions in Scotland have undertaken training on the Code of Ethics for policing in Scotland, and on the disciplinary policy procedures and operational procedures in place for Police Scotland, and the Chief Constable shall take that Code and those procedures into account when exercising his or her functions.”

**Clause 45**

LORD DUNLOP

**45★** Page 47, line 17, leave out subsection (5)

**46★** Page 47, leave out lines 24 to 33 and insert—

“(1A) The Scottish Ministers may not make regulations under subsection (1)(e) prescribing model clauses that may be prescribed under subsection (1B).

(1B) The Secretary of State may make regulations prescribing model clauses on the consideration payable for a licence granted by the Scottish Ministers, and the following so far as they relate to such consideration—

(a) the measurement of petroleum obtained from the licenced area (including the facilitation of such measurement);

(b) the keeping of accounts;

(c) cancellation of a licence by the Secretary of State if there has been a failure to pay consideration or to comply with a clause on a matter falling within paragraph (a) or (b).

(1C) Model clauses prescribed under subsection (1B) shall, unless the Secretary of State thinks fit to modify or exclude them in any particular case, be incorporated in any licence granted by the Scottish Ministers.”

**After Clause 50**

LORD WALLACE OF TANKERNES

LORD STEPHEN

**47★** Insert the following new Clause—

“**Consents for electricity generating stations and overhead lines**

(1) Section D1 in Part 2 of Schedule 5 to the Scotland Act 1998 (electricity) is amended as follows.
(2) For the heading “Exception” substitute—

“Exceptions

Consent for the construction, extension or operation of electricity generating stations.

Consent to install or keep installed overhead lines.

The grant of any ancillary consent or right including—

(a) regulation of public rights of navigation in respect of offshore installations for electricity generation and transmission;

(b) establishment of a safety zone in respect of offshore installations for electricity generation and transmission;

(c) decommissioning of offshore installations for electricity generation and transmission;

(d) compulsory acquisition of land by holders of licences under Part 1 of the Electricity Act 1989;

(e) acquisition of wayleaves by holders of licences under Part 1 of the Electricity Act 1989.”

Clause 58

LORD WALLACE OF TANKERNESS
LORD STEPHEN

48★ Page 67, line 32, after “electricity” insert “or heat”

49★ Page 67, line 33, after “electricity” insert “or heat”

50★ Page 67, line 35, after “scheme” insert “or renewable heat incentive scheme”

51★ Page 67, line 38, leave out from beginning to end of line 3 on page 68

52★ Page 68, line 3, at end insert “or renewable heat incentive scheme”

53★ Page 68, line 4, after “scheme” insert “or a “renewable heat incentive scheme””

54★ Page 68, line 15, at end insert—

“(d) section 100 of the Energy Act 2008 (renewable heat incentives).”

After Clause 58

LORD WALLACE OF TANKERNESS
LORD STEPHEN

55★ Insert the following new Clause—

“Ofgem’s Energy Strategy and Policy Statement

In section 131 of the Energy Act 2013 (strategy and policy statement), at the end of subsection (3) insert “after consultation with the Scottish Ministers.”
**Amendment No. 56**

Insert the following new Clause—

**“Renewable energy**

Within three months of the passing of this Act, the Secretary of State shall publish proposals to transfer to the Scottish Ministers powers on the awarding of contracts under Contracts for Difference and the setting of electricity feed-in tariffs in respect of electricity generation from renewable sources in Scotland.”

**After Clause 19**

LORD KERR OF KINLOCHARD

Insert the following new Clause—

**“Borrowing powers**

(1) Section 66 of the Scotland Act 1998 (borrowing by the Scottish Ministers etc.) is amended as follows.

(2) For subsections (1A) and (1B) substitute—

“(1A) Subject to subsection (1B), the Scottish Ministers may borrow by way of loan or by the issue of bonds (but not bonds transferable by delivery) any sums required by them.

(1B) Borrowing by Scottish Ministers shall be subject to—

(a) annual limits; and

(b) an overall ceiling.

(1C) The annual limits and the overall ceiling shall be set by regulations made by the Treasury, following consultation with Scottish Ministers.

(1D) Regulations under subsection (1C) may not be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.”

**Clause 29**

LORD KIRKWOOD OF KIRKHOPE

Page 30, line 19, leave out “claiming reserved benefits”

Page 30, line 21, leave out from “employment” to end
Before Clause 65

LORD KIRKWOOD OF KIRKHOPE

60★ Insert the following new Clause—

“Consolidation of the Scotland Act 1998

Within six months of the passing of this Act, the Secretary of State must lay before each House of Parliament a draft Bill to consolidate the Scotland Act 1998, incorporating all the changes that have been made to the 1998 Act by subsequent legislation including by this Act.”

Clause 68

LORD HOPE OF CRAIGHEAD

61★ Page 74, line 32, leave out “1, 3, 4, 5 or 6” and insert “3”

62★ Page 74, line 36, leave out subsection (2)

63★ Page 75, line 5, leave out subsection (5)

64★ Page 75, line 9, leave out “Any other” and insert “A”

65★ Page 75, line 13, leave out subsection (7)

After Clause 68

LORD McCLUSKEY

66★ Insert the following new Clause—

“The fiscal framework

(1) Within 30 days of the date on which this Act is passed, the Secretary of State must publish in full the new fiscal framework agreed between the Scottish and UK Governments, unless it has already been published by the Secretary of State.

(2) Within 30 days of the date on which this Act is passed, the Secretary of State shall publish as an appendix to the new fiscal framework as published a full description of any agreement whatsoever reached between the said Governments relating to the future of the Barnett Formula or its application, amendment or replacement in the future, including any agreement as to when any such change is intended to be considered by the two Governments in the future.

(3) In this section, “the new fiscal framework” means the agreement between the said Governments as to the arrangements and institutions intended to underpin the tax and spending powers included and devolved under this Act and under the Scotland Acts of 1998 and 2012, including the funding of the Scottish budget, planning, management and scrutiny of public revenues and spending, the manner in which the block grant is or may be adjusted to accommodate further devolution, and the operation of borrowing powers and cash reserve, fiscal rules, and independent institutions.”
After Clause 68 — continued

Insert the following new Clause —

“The Scottish Fiscal Commission

(1) The Scottish Parliament shall have an express power to expand the independent scrutiny of Scotland’s public finances.

(2) The power created by subsection (1) may be exercised by the creation by the Scottish Parliament of a Scottish Fiscal Commission that is independent of the Scottish Government.

(3) The Scottish Fiscal Commission shall, as far as is possible, be modelled on the Office for Budget Responsibility.

(4) The duties and responsibilities of the Scottish Fiscal Commission shall, as far as is possible, be the same for Scotland as those of the Office for Budget Responsibility for the United Kingdom.

(5) If any person elected as a member of the Scottish Parliament challenges the independence of any person nominated to be a member of the Scottish Fiscal Commission, the Lord President of the Court of Session shall determine whether that person is independent; and shall do so on the basis of written submissions made to him or her by any person or body invited by the Lord President to make representations to him or her on the matter; and the ruling of the Lord President on the matter shall be final and not reviewable.

(6) If the Lord President rules that a person nominated to be a member of the Scottish Fiscal Commission is not independent, that person shall not be appointed to be a member of the Commission.

(7) In this section “independence” means independence from the Scottish Government and from any political party with representation in the United Kingdom Parliament or the Scottish Parliament.”

Clause 69

LORD FORSYTH OF DRUMLEAN

Page 75, line 26, at end insert—

“(A1) None of sections 1 to 68 may come into force until—

(a) the Secretary of State has laid before each House of Parliament a fiscal framework setting out the arrangements and institutions underpinning the tax and spending powers included and devolved under this Act and under the Scotland Acts 1998 and 2012; and

(b) the framework has been approved by a resolution of each House of Parliament.

(A2) If any of the following provisions of this section would otherwise result in any of sections 1 to 68 coming into force before the condition in subsection (A1) is met, the coming into force of that section shall be delayed until the day that the condition in subsection (A1) is met.”
Amendment No. 69★  Page 75, line 29, at end insert—
“( ) section (The fiscal framework);”

Amendment No. 70★  Page 75, line 34, leave out “2 months” and insert “3 months”

Amendment No. 71★  Page 75, line 37, at end insert “, or after the Scottish Fiscal Commission has been created under section (The Scottish Fiscal Commission), whichever is the later date”

Amendment No. 72★  Page 76, line 3, leave out “2 months” and insert “3 months”
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

23rd February 2016