Clause 42

LORD FAULKNER OF WORCESTER
LORD EMPEY
LORD FORSYTH OF DRUMLEAN

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.”

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

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”.”

Amendments marked ★ are new or have been altered
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 EMPEY
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.

(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 TANKERNESS

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

54A Page 68, leave out lines 1 to 3

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”.”

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.”
Scotland Bill

Before Clause 13

LORD FORSYTH OF DRUMLEAN

56ZA Insert the following new Clause—

“Approval of the fiscal framework

Nothing in this Part shall have effect until each House of Parliament has passed a motion expressing its approval of the agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework.”

Clause 13

LORD DUNLOP
LORD HIGGINS

56A Page 16, line 14, at end insert—

“(17) Regulations under this section must be made by statutory instrument.”

Clause 15

LORD HIGGINS

56B Page 18, line 29, leave out subsection (8)

56C Page 18, line 35, leave out subsection (9)

56D Page 18, line 43, leave out from “section” to “may” in line 44

56E Page 19, line 3, leave out subsection (13)

After Schedule 1

LORD McAVOY
LORD McFALL OF ALCLUITH

56F Insert the following new Schedule—

“SCHEDULE

THE JOINT COMMITTEE ON WELFARE DEVOLUTION

Membership

1 The Joint Committee on Welfare Devolution shall comprise the Secretary of State, who is to be the chair of the Committee, and the following other members—

(a) the Scottish Minister who is responsible to the Scottish Parliament for welfare policy and payments, who is to be the deputy chair of the Committee;

(b) the Member of the House of Commons who is for the time being the Chair of the Work and Pensions Select Committee of the House of Commons;
(c) the Member of the Scottish Parliament who is for the time being the Chair of the Welfare Reform Committee of the Scottish Parliament;
(d) two Members of Parliament who are not Ministers of the Crown;
(e) two Members of the Scottish Parliament who are not Scottish Ministers; and
(f) two persons representing local government in Scotland.

2 The members of the Joint Committee on Welfare Devolution mentioned in paragraph 1(d) are to be appointed by the Speaker of the House of Commons and the Lord Speaker of the House of Lords.

3 The members of the Joint Committee on Welfare Devolution mentioned in paragraph 1(e) are to be appointed by the Presiding Officer of the Scottish Parliament.

4 The members of the Joint Committee on Welfare Devolution mentioned in paragraph 1(f) are to be appointed by Scottish Ministers after consultation with the Convention of Scottish Local Authorities.

5 In this Schedule, references to the Work and Pensions Select Committee of the House of Commons are—
   (a) if the name of that Committee is changed, to be taken (subject to paragraph (b)) to be references to the Committee by its new name;
   (b) if the functions of that Committee with respect to welfare policy and payments (or functions substantially corresponding thereto) become functions of a different committee of the House of Commons, to be taken to be references to the committee by whom the functions are for the time being exercisable.

6 In this Schedule, references to the Welfare Reform Committee of the Scottish Parliament are—
   (a) if the name of that Committee is changed, to be taken (subject to paragraph (b)) to be references to the Committee by its new name;
   (b) if the functions of that Committee at the passing of this Act with respect to welfare policy and payments (or functions substantially corresponding thereto) become functions of a different committee of the Scottish Parliament, to be taken to be references to the committee by whom the functions are for the time being exercisable.

Term of office of Committee members

7 A member may resign from the Committee at any time by giving notice to the Secretary of State.

8 A member may be re-appointed (or further re-appointed) to membership of the Committee.

Committee proceedings

9 The Joint Committee on Welfare Reform may determine its own procedure.
The validity of any proceedings of the Joint Committee on Welfare Reform is not affected by—

(a) any vacancy among, or
(b) any defect in the appointment of any of, the members of the Committee.

The Joint Committee on Welfare Reform may appoint a member of the Committee to act at any meeting of the Committee in the absence of both the Secretary of State and the Scottish Minister who is deputy chair of the Committee.

The Secretary of State and Scottish Ministers acting jointly may make regulations appointing a panel to advise the Joint Committee on Welfare Reform on the transfer, implementation and operation of the powers devolved to the Scottish Parliament by Part 3 of this Act, comprising academics, representatives of the third sector and voluntary organisations, and other relevant stakeholders.

The Joint Committee on Welfare Reform must consult any advisory panel appointed under paragraph 12.”

After Schedule 1—continued

Amendment No.

10 The validity of any proceedings of the Joint Committee on Welfare Reform is not affected by—

(a) any vacancy among, or
(b) any defect in the appointment of any of, the members of the Committee.

11 The Joint Committee on Welfare Reform may appoint a member of the Committee to act at any meeting of the Committee in the absence of both the Secretary of State and the Scottish Minister who is deputy chair of the Committee.

Advisory Panel

12 The Secretary of State and Scottish Ministers acting jointly may make regulations appointing a panel to advise the Joint Committee on Welfare Reform on the transfer, implementation and operation of the powers devolved to the Scottish Parliament by Part 3 of this Act, comprising academics, representatives of the third sector and voluntary organisations, and other relevant stakeholders.

13 The Joint Committee on Welfare Reform must consult any advisory panel appointed under paragraph 12.”

Clause 19

LORD HIGGINS

56G Page 21, line 39, leave out paragraph (b)

56H Page 22, line 2, leave out from “section” to “may” in line 3

56J Page 22, line 6, leave out subsection (7)

After Clause 19

LORD DUNLOP

56K Insert the following new Clause—

“Borrowing

(1) The Scotland Act 1998 is amended as follows.

(2) Section 66(1) (borrowing by the Scottish Ministers from the Secretary of State) is amended as follows.

(3) At the end of paragraph (b) omit “and”.

(4) In paragraph (c)—

(a) after “devolved taxes,” omit “or”;
(b) after “Scottish rate resolution,” insert “or from amounts payable under section 64A,”.

After Schedule 1—continued
(5) After paragraph (c) insert—

“(d) any sums which in accordance with rules determined by the Treasury are required by them to meet current expenditure because of an excess of welfare payments over forecast welfare payments, and

(e) any sums which in accordance with rules made by the Treasury are required by them to meet current expenditure because of a Scotland-specific negative economic shock.”

(6) After that subsection insert—

“(1ZA) In subsection (1)(d) “welfare payments” means—

(a) payments under any provision relating to matters within exceptions 1 to 10 in Section F1 of Part 2 of Schedule 5 or exception 1 in Section H3 of that Part, and

(b) payments attributable to regulations made by the Scottish Ministers by virtue of section 27 or 28 of the Scotland Act 2016 (powers in relation to universal credit).”

(7) In section 67(2) and (3A) (lending under section 66(1)) for “£500 million” substitute “£1.75 billion”.

(8) In section 67A (lending for capital expenditure) in subsections (1) and (3) for “£2.2 billion” substitute “£3 billion”.

(9) The Treasury may by regulations make transitional or saving provision in connection with the coming into force of the amendments made by this section.

(10) Regulations under subsection (9) must be made by statutory instrument.

(11) A statutory instrument containing regulations under subsection (9), if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.”

56L Insert the following new Clause—

“Provision of information to the Office for Budget Responsibility

(1) The Scotland Act 1998 is amended as follows.

(2) After section 96 (provision of information to the Treasury) insert—

“96A Provision of information to the Office for Budget Responsibility

(1) The Office for Budget Responsibility has a right of access at any reasonable time to all Scottish public finances information which it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).

(2) The Office is entitled to require from any person holding or accountable for any Scottish public finances information any assistance or explanation which the Office reasonably thinks necessary for that purpose.
After Clause 19—continued

(3) “Scottish public finances information” means information held by the Scottish Ministers or by any Scottish public authority specified in regulations made by the Secretary of State.

(4) This section is subject to any enactment or rule of law which operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.”

(3) In Schedule 7 (procedure for subordinate legislation), in paragraph 1(2) insert at the appropriate place—

“Section 96A Type C”.

LORD KERR OF KINLOCHARD

57 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.”

THE EARL OF KINNOULL

[Amendment 57ZA is an amendment to Amendment 57]

57ZA At end insert—

(1E) Borrowing by Scottish Ministers shall be subject to separate limits in respect of Capital and Resource borrowings.

(1F) Borrowings by Scottish Ministers may only be allowed in currencies set out in regulations made by the Treasury, following consultation with Scottish Ministers.

(1G) All limits in borrowings hereunder shall be calculated with reference to the principal amount of each loan or the offering price, whichever is the higher.
Amendment No. 57A

Insert the following new Clause—

“Non-budget expenditure and the Scottish Consolidated Fund

Before the end of the first month of each financial year, the Secretary of State must lay before Parliament a full record, including minutes of meetings and Ministerial correspondence, of discussions between the Secretary of State, the Treasury and Scottish Ministers relating to the non-budget expenditure to be voted by Parliament authorising the payment of grants to the Scottish Consolidated Fund and that financial year.”

LORD WALLACE OF TANKERNES
LORD STEPHEN

57AA★ Insert the following new Clause—

“Fiscal framework: review

(1) The agreement between Her Majesty’s Government and the Scottish Ministers regarding a fiscal framework for operation of the tax powers and funding of the Scottish Parliament shall be reviewed no earlier than four years following the passing of this Act.

(2) The review under subsection (1) shall be undertaken by a Commission consisting of three persons each from—

(a) the membership of the Office for Budget Responsibility’s Advisory Panel, who shall be appointed by the Office Chairman; and

(b) the membership of a Scottish professional body to be agreed by Her Majesty’s Treasury and Scottish Ministers, which members shall be appointed by the senior office-bearer of that body.

(3) Any person appointed under subsection (2) shall not be a member of any registered political party nor have been a member of any registered political party at any time during a period of five years prior to appointment.

(4) The Commission shall publish a report of its review, which may include recommendations, no later than 30th November 2021.

(5) The Commission shall submit copies of the report to both Houses of the Parliament of the United Kingdom, to the Scottish Parliament, to the Chancellor of the Exchequer and to the Scottish Ministers.”
Before Clause 20

LORD FORSYTH OF DRUMLEAN

57AB★ Insert the following new Clause—

“Approval of the fiscal framework (No. 2)

Nothing in this Part shall have effect until each House of Parliament has passed a motion expressing its approval of the agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework.”

57AC★ Insert the following new Clause—

“Annual statements on administration and implementation costs

The Scottish Government shall publish a statement at the end of each year of the transitional period indicating how the £200 million provided by the United Kingdom Government to support the implementation of new powers, and the baseline transfer of £66 million per year to cover the ongoing administration costs associated with the new powers, have been spent.”

After Clause 28

LORD McAVOY
LORD McFALL OF ALCLUITH

57B Insert the following new Clause—

“Joint Committee on Welfare Devolution

(1) There shall be a Joint Committee on Welfare Devolution to examine the transfer, implementation and operation of the powers devolved to the Scottish Parliament by Part 3 of this Act.

(2) The Joint Committee on Welfare Devolution shall be responsible for ensuring full cooperation, consultation and information-sharing between the United Kingdom Government, the Scottish Government and relevant stakeholders.

(3) The Joint Committee on Welfare Devolution shall publish a report—

(a) on the transfer and implementation of the powers devolved to the Scottish Parliament by Part 3 of this Act, at least once every three months for the first three years from the date on which this Act is passed, and

(b) on the operation of the powers devolved to the Scottish Parliament by Part 3 of this Act, at least once in each calendar year, starting three years from the date on which this Act is passed.

(4) Schedule (The Joint Committee on Welfare Devolution), which makes further provision in relation to the Joint Committee on Welfare Devolution, has effect.”
Amendment No.

Clause 29

LORD KIRKWOOD OF KIRKHOPE

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

59 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
LORD HIGGINS
LORD WALLACE OF TANKERNESS
LORD STEPHEN

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

LORD WALLACE OF TANKERNESS
LORD STEPHEN

61A Page 74, line 34, leave out “1, 3, 4, 5 or 6” and insert “3”

LORD HOPE OF CRAIGHEAD
LORD HIGGINS

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

LORD DUNLOP

62A Page 74, line 37, leave out “(whenever passed or made)”

LORD WALLACE OF TANKERNESS
LORD STEPHEN

62B Page 74, line 40, leave out paragraph (c)
Amendment No.

Clause 68 — continued

LORD DUNLOP

62C Page 74, line 40, at end insert—

“( ) For the purposes of making provision in connection with, or with the coming into force of, a provision of Part 3, subsection (2) applies to an enactment, instrument or document whenever passed or made.

( ) Otherwise, subsection (2) applies to—

(a) an Act of Parliament passed before or in the same session as this Act;

(b) an Act of the Scottish Parliament passed, or an instrument or document made, before the end of the session in which this Act is passed.”

LORD WALLACE OF TANKERNESS
LORD STEPHEN

62D Page 75, line 3, leave out paragraph (e)

LORD HOPE OF CRAIGHEAD
LORD HIGGINS

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)

LORD DUNLOP

65A Page 75, line 14, after “enactment” insert “— (a)”

65B Page 75, line 14, after “Parliament,” insert “and

(b) for the purposes of making provision in connection with, or with the coming into force of, a provision of Part 3, also includes”

LORD WALLACE OF TANKERNESS
LORD STEPHEN

65C Page 75, line 14, leave out from “Parliament” to end of line 15

65D Page 75, line 21, leave out paragraphs (c) and (d)

66 [Withdrawn]
After Clause 68

LORD McCLUSKEY

67 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.”

67A Insert the following new Clause—

“The Barnett Formula

Within 30 days of the date on which this Act is passed, the Secretary of State shall publish, as a supplementary memorandum to the agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework, a document containing a full description of—

(a) any agreement reached between the governments relating to the future of the Barnett Formula or its application, amendment or replacement; and

(b) any agreement as to when any change resulting from such an agreement is expected to be considered by the two governments.”
Clause 69

LORD FORSYTH OF DRUMLEAN

68  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.”

68A★  Page 75, line 28, at end insert—

“( ) sections (Approval of the fiscal framework), (Approval of the fiscal
framework (No.2)) and (Annual statements on administration and
implementation costs);”

68B★  Page 75, line 34, leave out “Part 2 comes” and insert “the remaining provisions of
Part 2 come”

69  [Withdrawn]

70  [Withdrawn]

71  [Withdrawn]

LORD DUNLOP

71A  Page 75, line 37, at end insert—

“( ) sections 3 to 12;”

LORD FORSYTH OF DRUMLEAN

71AA★  Page 75, line 38, at beginning insert “the remaining provisions of”

LORD DUNLOP

71B  Page 75, line 43, leave out “Section 64 comes” and insert “Sections (Borrowing) and
64 come”

71C  Page 75, line 43, leave out “Section 64 comes” and insert “Sections (Provision of
information to the Office for Budget Responsibility) and 64 come”

72  [Withdrawn]
REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

26th February 2016