

# European Union (Withdrawal) Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of 16th April 2018, as follows –*

Clauses 1 to 5	Clause 14
Schedule 1	Schedule 6
Clauses 6 to 9	Clause 15
Clause 16	Clause 12
Schedule 7	Schedule 4
Clause 17	Clause 13
Clause 10	Schedule 5
Schedule 2	Clauses 18 and 19
Clause 11	Schedules 8 and 9
Schedule 3	Title.

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**Clause 5**

LORD PANNICK  
LORD GOLDSMITH  
BARONESS LUDFORD  
LORD DEBEN

- 15** 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.”

LORD FAULKES

- 16** Page 3, line 21, at end insert “except in so far as the Charter is a necessary part of retained EU law ”

**After Clause 5**

BARONESS LISTER OF BURTERSETT  
BARONESS BURT OF SOLIHULL  
BARONESS ALTMANN

17 Insert the following new Clause—

**“Future provisions relating to family friendly employment rights, gender equality and work-life balance for parents and carers**

- (1) A Minister of the Crown must, as soon as reasonably practicable, report to both Houses of Parliament whenever new or amended EU law in the area of family friendly employment rights, gender equality and work-life balance for parents and carers would have amended provisions or definitions in domestic law had the United Kingdom remained a member of the EU or the European Economic Area (the “EEA”) beyond exit day.
- (2) Having reported to both Houses of Parliament, the Minister must consider whether to seek to incorporate those amended provisions or definitions into domestic law, in order to ensure that there is no material reduction of gender equality and employment rights as a result of the United Kingdom exiting the EU or EEA and that those working in the United Kingdom have at least the same gender equality and employment rights and protections as they would have had if the United Kingdom had remained in the EU or EEA.
- (3) New or amended EU law for the purposes of this section includes but is not limited to—
  - (a) any future EU directives relating to family friendly employment rights, including but not limited to rights for pregnant workers and employees, and those returning from maternity, paternity and parental leave;
  - (b) any future EU directives relating to gender equality;
  - (c) the proposed directive of the European Parliament and of the Council on work life balance for parents and carers.
- (4) Reports presented under subsection (1) must include—
  - (a) an assessment of how such amendments to domestic law would have impacted gender equality and work life balance in the United Kingdom had the United Kingdom remained a member of the EU or EEA beyond exit day, and
  - (b) an assessment of how not implementing amended provisions or definitions in domestic law will impact gender equality and work life balance in the United Kingdom.”

**After Clause 5 - continued**

LORD WARNER  
LORD HUNT OF KINGS HEATH  
BARONESS JOLLY  
BARONESS FINLAY OF LLANDAFF

**17A** Insert the following new Clause—

**“Public health protection**

Article 168 of the Treaty on the Functioning of the European Union, so far as it requires a Minister of the Crown or a public authority to have regard to the principle that a high level of human health protection must be ensured in the definition and implementation of all policies and activities, forms part of retained EU law.”

**Schedule 1**

LORD BEITH  
LORD PANNICK

**18** Page 16, leave out lines 11 to 15

LORD PANNICK  
LORD BEITH

**19** Page 16, line 21, leave out paragraph 3

**Clause 6**

BARONESS KENNEDY OF THE SHAWS

**20** Page 3, line 33, at end insert—

“(1A) Notwithstanding the provisions of subsection (1), a court or tribunal retains, for the period of eight years after exit day, the ability to refer a matter relating to family law to the European Court, in order to seek a preliminary ruling on that matter.

(1B) Having exercised the power in subsection (1A), a court or tribunal is bound by any preliminary ruling of the European Court.

(1C) In addition to the provisions of subsection (1A), a court or tribunal must, when considering a matter relating to family law, have regard to any relevant judgment or decision given by the European Court for a period of eight years after exit day.

(1D) A Minister of the Crown may by regulations made by statutory instrument extend the time period specified in subsections (1A) and (1C).

(1E) A statutory instrument containing regulations under subsection (1D) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Clause 6 - continued**

LORD PANNICK  
LORD GOLDSMITH  
LORD WALLACE OF TANKERNESS  
VISCOUNT HAILSHAM

- 21 Page 3, line 34, leave out subsection (2) and insert –  
“(2) A court or tribunal may have regard to anything done on or after exit day by the European Court, another EU entity or the EU where it considers it relevant to the proper interpretation of retained EU law.”

LORD FAULKS

- 22 Page 3, line 34, leave out subsection (2) and insert –  
“(2) A court or tribunal may have regard to decisions of the European Court made on or after exit day if it considers them relevant and helpful.”

LORD CALLANAN

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

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

- 25 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**

LORD CALLANAN

- 26 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,

**After Clause 6 - continued**

- (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 made under a power which permits such a modification by virtue of—
    - (i) paragraph 3A, 3C(2), 3F(3), 5A(2) 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 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—

**After Clause 6 - continued**

- (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).”

LORD DEBEN  
 BARONESS BROWN OF CAMBRIDGE  
 BARONESS JONES OF WHITCHURCH  
 LORD INGLEWOOD

27★ 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 (6) within the period of three months beginning with the date on which this Act is passed.
- (3) The Secretary of State must publish proposals for primary legislation establishing 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 the establishment before exit day of an independent institution with the purpose of ensuring compliance with environmental law by relevant public authorities.
- (5) In making proposals under subsection (4), the Secretary of State must include proposals to the effect that—
  - (a) the chair of the independent institution must be appointed by the Secretary of State with the agreement of the first ministers of the devolved administrations and the approval of a committee of either House of Parliament charged with approving such an appointment;
  - (b) the independent body must receive funds judged by the Comptroller and Auditor General to be sufficient for it to carry out its functions;
  - (c) the independent body must report annually before 30 June on compliance with environmental law by relevant public authorities, including the Secretary of State’s compliance with the terms of the Statement of Environmental Policy published in accordance with subsection (7); and

**After Clause 6 - continued**

- (d) the Secretary of State must publish a response to such a report annually before 30 September.
- (6) 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 must be retained or replicated in UK law in order to achieve the objective in subsection (1).
- (7) The Secretary of State must before 1 January 2020 lay before Parliament a Statement of Environmental Policy which sets out how the Government will give effect to the principles set out in subsection (8).
- (8) 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,
  - (i) access to justice in relation to environmental matters, and
  - (j) full regard to the welfare requirements of animals as sentient beings.
- (9) Before complying with subsections (3) to (7) 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; and
  - (d) such other persons as the Secretary of State thinks appropriate.”

LORD JUDD

28 Insert the following new Clause—

**“Safeguarding biodiversity policy**

The Secretary of State must ensure that before exit day all necessary action has been taken to safeguard the United Kingdom’s commitment to the protection and enhancement of biodiversity and to integrate all relevant EU law and regulations into UK legislation.”

*After Clause 6 - continued*

LORD WALLACE OF SALTAIRE  
 BARONESS SMITH OF NEWNHAM  
 LORD JUDD  
 LORD WIGLEY

29 Insert the following new Clause—

**“Co-ordination of foreign and security policy**

The Secretary of State must ensure that before exit day all necessary action has been taken to continue co-ordination of foreign and security policy with the EU, including association with the EU’s military staff and the European Defence Agency, and to integrate all relevant EU law and regulations into UK legislation.”

BARONESS LUDFORD  
 LORD PADDICK  
 LORD JUDD

30 Insert the following new Clause—

**“Internal security, justice and police co-operation and counter-terrorism**

The Secretary of State must ensure that before exit day all necessary action has been taken to continue the United Kingdom’s participation in EU measures to promote internal security, justice and police co-operation and counter-terrorism to the extent that—

- (a) the United Kingdom has opted in to those measures,
- (b) they will be incorporated into UK law as retained EU law, and
- (c) they will not remove or diminish any rights of the individual in the criminal justice process.”

LORD WALLACE OF TANKERNESS  
 LORD LOW OF DALSTON  
 BARONESS LISTER OF BURTERSETT

30A★ Insert the following new Clause—

**“Equality and discrimination**

- (1) The purpose of this section is to ensure that the withdrawal of the United Kingdom from the EU does not diminish protection for equality in domestic law.
- (2) Rights under equalities legislation are not to be removed or diminished.
- (3) In this section “equalities legislation” means the Equality Act 2006, the Equality Act 2010 and subordinate legislation made under either of those Acts.
- (4) In any proceedings in which a court determines whether a provision of primary legislation is compatible with subsection (2), if the court is satisfied that the provision is incompatible it may make a declaration to that effect.
- (5) Subordinate legislation is not law if and to the extent that it is incompatible with subsection (2).



**After Clause 6 - continued**

- (6) Subsection (5) does not apply to a provision of subordinate legislation if made in the exercise of a power conferred by primary legislation which prevents avoidance or removal of the incompatibility.
- (7) In any proceedings in which a court determines whether a provision of subordinate legislation is compatible with subsection (2), if the court is satisfied that subsection (6) applies the court may make a declaration of the incompatibility.
- (8) Section 10 of the Human Rights Act 1998 (power to take remedial action) applies in relation to a declaration of incompatibility under subsection (4) or (7) of this section as it applies in relation to a declaration of incompatibility under section 4 of that Act.
- (9) Section 19 of the Human Rights Act 1998 (statements of compatibility) applies in relation to compatibility with subsection (2) of this section as it applies in relation to compatibility with the Convention rights.”

**Clause 7**

LORD LISVANE  
LORD TYLER  
LORD GOLDSMITH  
LORD CORMACK

31 Page 5, line 3, leave out “the Minister considers appropriate” and insert “is necessary”

BARONESS MCINTOSH OF PICKERING

32 Page 5, line 46, leave out “, comes into force or only applies”

LORD CALLANAN

32A Page 6, line 7, leave out “newly established or”

32B Page 6, line 10, leave out from “modified” to the end of line 13

LORD O'DONNELL  
LORD NEWBY  
BARONESS HAYTER OF KENTISH TOWN  
LORD BOWNESS

33 Page 6, line 11, leave out paragraph (b)

LORD CALLANAN

33A Page 6, line 15, after “taxation” insert “or fees”

LORD JUDGE  
BARONESS HAYTER OF KENTISH TOWN  
LORD MCNALLY  
VISCOUNT HAILSHAM

34 Page 6, line 17, leave out “relevant”

**Clause 7 - continued**

LORD CALLANAN

- 34A** Page 6, line 17, at end insert—  
“() establish a public authority,”
- 34B** Page 6, line 21, after “repeal” insert “the Scotland Act 1998, the Government of Wales Act 2006 or”
- 34C** Page 6, line 23, leave out from “repealing” to “any” in line 24
- 34D** Page 6, line 24, leave out “that Act” and insert “those Acts”

LORD O'DONNELL

LORD NEWBY

BARONESS HAYTER OF KENTISH TOWN

LORD BOWNESS

- 35** Page 6, line 25, at end insert—  
“() provide for the establishment of public authorities in the United Kingdom”

LORD WIGLEY

- 36** Page 6, line 25, at end insert—  
“() weaken, remove or replace any requirement of law in effect in the United Kingdom immediately before exit day which, in the opinion of the Minister, was a requirement up to exit day of the United Kingdom’s membership of the single market”

BARONESS KENNEDY OF THE SHAWS

- 37** Page 6, line 25, at end insert—  
“() diminish the protections in relation to “protected persons” set out in Part 3 of the Criminal Justice (European Protection Order) (England and Wales) Regulations 2014 (SI 2014/3300).”
- 38** Page 6, line 25, at end insert—  
“() amend or vary the provisions of the Immigration Act 1971 relating to passport control procedures on journeys within the Common Travel Area.”

**After Clause 7**

BARONESS BOWLES OF BERKHAMSTED

39 Insert the following new Clause—

**“Retained EU law enacted in the EU by co-decision or ordinary legislative procedure**

Other than as provided in section 7, retained EU law that was enacted in the EU by co-decision or the ordinary legislative procedure may be modified only by an Act of Parliament.”

LORD TREES

BARONESS JONES OF WHITCHURCH

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

BARONESS JONES OF MOULSECOOMB

40 Insert the following new Clause—

**“EU Protocol on animal sentience (Article 13 of Title II of the Treaty on the Functioning of the EU (TFEU))**

- (1) Ministers of the Crown and the devolved administrations must pay due regard to the welfare requirements of animals as sentient beings in the formulation and implementation of public policy.
- (2) In this section—
  - (a) “animals” means vertebrates, other than man, and cephalopods, whether under the control of man or living in a wild state.
  - (b) “Ministers of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes government departments.
- (3) It is for Parliament exclusively, in the exercise of absolute discretion, to hold Ministers of the Crown to account for the discharge of their duties under this section.
- (4) It is for the Scottish Parliament exclusively, in the exercise of absolute discretion, to hold the Scottish Government to account for the discharge of their duties under this section.
- (5) It is for the National Assembly for Wales exclusively, in the exercise of absolute discretion, to hold the Welsh Government to account for the discharge of their duties under this section.
- (6) It is for the Northern Ireland Assembly exclusively, in the exercise of absolute discretion, to hold the Northern Ireland Executive to account for the discharge of their duties under this section.
- (7) The Secretary of State must submit a report annually to Parliament relating to the formulation, implementation, and effectiveness of policy relating to animal welfare to reflect the duty of subsection (1).
- (8) The Scottish Government must submit a report annually to the Scottish Parliament relating to the formulation, implementation, and effectiveness of policy relating to animal welfare to reflect the duty of subsection (1).
- (9) The Welsh Government must submit a report annually to the National Assembly for Wales relating to the formulation, implementation, and effectiveness of policy relating to animal welfare to reflect the duty of subsection (1).

**After Clause 7 - continued**

- (10) The Northern Ireland Executive must submit a report annually to the Northern Ireland Assembly relating to the formulation, implementation, and effectiveness of policy relating to animal welfare to reflect the duty of subsection (1).”

LORD WHITTY

LORD JUDD

LORD WIGLEY

41

Insert the following new Clause –

**“Environmental etc. standards**

- (1) The Secretary of State must within two months of the passing of this Act lay before Parliament a report indicating how it is intended to maintain a relationship with executive agencies of the EU and enforcement processes of the EU in respect of environmental standards, food safety and animal welfare, whether by continued participation in EU agencies and processes or by establishing effective equivalents within the United Kingdom.
- (2) The report referred to in subsection (1) must include proposals for continued engagement with or replacement of –
- (a) in respect of environmental standards –
    - (i) the REACH programme,
    - (ii) the European Chemicals Agency,
    - (iii) the European Environment Agency, and
    - (iv) the powers of the European Commission in relation to air and water pollution and soil quality including powers to enforce cross compliance;
  - (b) in respect of standards of food and feed safety and quality, and of animal health and welfare –
    - (i) the European Food Safety Agency, and
    - (ii) the powers of the European Commission to enforce standards of food and feed and of animal health and welfare including powers to enforce cross compliance.
- (3) The report referred to in subsection (1) may include proposals for regulations.
- (4) Regulations proposed in such a report may be made by –
- (a) the Secretary of State,
  - (b) a Welsh Minister,
  - (c) a Scottish Minister, or
  - (d) a Northern Ireland department,
- according to the legislative competence of the relevant Parliament or Assembly.
- (5) Regulations under subsection (4)(a), (b) or (c) are to be made by statutory instrument. The power to make regulations under subsection (4)d) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

**After Clause 7 - continued**

- (6) A statutory instrument containing regulations under subsection (3)(a) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing regulations under subsection (3)(b) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) Regulations made by the Scottish Ministers under subsection (3)(c) are subject to the affirmative procedure.
- (9) Regulations may not be made by a Northern Ireland department under subsection (3)(d) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”

**BARONESS JONES OF MOULSECOOMB**

**41A** Insert the following new Clause –

**“EU Protocol on animal sentience**

The obligation on Ministers of the Crown and the devolved administrations to pay regard to the welfare requirements of animals as sentient beings when formulating law and policy, contained within the EU Protocol on animal sentience as set out in Article 13 of Title II of the Treaty on the Functioning of the EU, shall be recognised and available in domestic law on and after exit day, and regulations under section 7 may not derogate from it.”

**Clause 8**

LORD LISVANE  
LORD GOLDSMITH  
LORD CORMACK  
LORD TYLER

**42** Page 6, line 34, leave out “the Minister considers appropriate” and insert “is necessary”

LORD KERR OF KINLOCHARD  
BARONESS HAYTER OF KENTISH TOWN  
BARONESS KRAMER  
LORD CORMACK

**43** Page 6, line 40, at end insert –  
“( ) impose or increase taxation,”

LORD JUDGE  
BARONESS HAYTER OF KENTISH TOWN  
LORD MCNALLY  
VISCOUNT HAILSHAM

**44** Page 6, line 42, leave out “relevant”

**Clause 8 - continued**

LORD CALLANAN

- 44A Page 6, line 42, at end insert –  
 “() establish a public authority,”

BARONESS KENNEDY OF THE SHAWS

- 45 Page 6, line 45, at end insert –  
 “() amend or vary the provisions of the Immigration Act 1971 relating to passport control procedures on journeys within the Common Travel Area.”

BARONESS MASSEY OF DARWEN  
 BARONESS MEACHER  
 THE EARL OF DUNDEE  
 LORD JUDD

- 46 Page 6, line 45, at end insert –  
 “() By exit day, a Minister of the Crown must lay before Parliament –  
 (a) a Ministerial Statement committing to give due consideration to all parts of the UN Convention on the Rights of the Child ratified by the United Kingdom when carrying out duties and functions that were within the competence of the EU before exit day, including functions as defined in section 7 to prevent, remedy or mitigate deficiencies;  
 (b) a comprehensive audit setting out how children’s rights will continue to be protected across the United Kingdom after exit day, particularly in areas where children’s rights are not currently protected under domestic law but were, before exit day, in EU law.”

BARONESS MCINTOSH OF PICKERING  
 BARONESS SMITH OF NEWNHAM

- 47 Page 7, line 2, at end insert –  
 “() For the purposes of this section “international obligations” includes any obligation or legal requirement arising from membership of the European Economic Area or the European Free Trade Association, should agreement be reached on the United Kingdom remaining in the former or joining the latter.”

**After Clause 8**

LORD WHITTY  
 LORD JUDD

- 48 Insert the following new Clause –  
**“Transport connectivity**  
 (1) The Secretary of State must within two months of the passing of this Act lay before both Houses of Parliament a report indicating the manner in which continuity and safety of transport is to be maintained following the United Kingdom’s withdrawal from the EU.

**After Clause 8 - continued**

- (2) The report referred to in subsection (1) must include proposals to maintain a relationship with the deliberations and operational activities of the EU's transport Executive Agencies, whether by continued participation in the European Agencies in some form or by establishing an effective equivalent within the United Kingdom or by other means.
- (3) The Agencies referred to in subsection (2) include—
  - (a) in respect of civil aviation, the European Aviation Safety Agency;
  - (b) in respect of maritime transport, the European Maritime Safety Agency; and
  - (c) in respect of rail transport, the European Railway Agency.
- (4) A Minister of the Crown must seek approval for the proposals in the report under subsection (2) by means of motions in both Houses of Parliament.
- (5) The Secretary of State may by regulations made by statutory instrument provide for the implementation of any proposal approved by both Houses of Parliament under subsection (4).
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Before Clause 9**

VISCOUNT HAILSHAM  
LORD HANNAY OF CHISWICK  
BARONESS HAYTER OF KENTISH TOWN  
LORD WALLACE OF SALTAIRE

49 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—

**Before Clause 9 - continued**

- (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.”

LORD NEWBY  
 VISCOUNT HAILSHAM  
 LORD WIGLEY  
 LORD BUTLER OF BROCKWELL

50 Insert the following new Clause –

**“Parliamentary motions on a referendum**

- (1) A Minister of the Crown must move a motion in each House of Parliament to provide for the option to hold a referendum on whether the United Kingdom should accept the outcome of the negotiations between the Government and the EU under Article 50(2) of the Treaty on European Union, or seek to remain in the EU by revoking the notification of withdrawal from the EU under Article 50.
- (2) Such a motion must be moved prior to the enactment of any statute to implement a withdrawal agreement and as a precondition to making regulations under section 9, irrespective of whether either House of Parliament has previously considered or approved a motion relating to the outcome of the negotiations under Article 50(2) of the Treaty on European Union.
- (3) If both Houses of Parliament approve the option of a referendum, the Secretary of State must not commence any statute nor make regulations under section 9 to implement a withdrawal agreement, but must bring forward proposals to hold such a referendum, and the Government must seek such an extension of the Article 50 period as may be necessary for this purpose.”



**Clause 9**

LORD MONKS  
BARONESS WHEATCROFT  
LORD CAMPBELL OF PITTENWEEM  
LORD LEA OF CRONDALL

51 Page 7, line 7, after “to” insert –

- “(a) approval by both Houses of Parliament of a mandate for negotiations about the United Kingdom’s future relationship with the EU; and
- (b) ”

LORD CORMACK  
LORD REID OF CARDOWAN  
LORD DEBEN  
LORD BALFE

52 Page 7, line 9, at end insert –

- “( ) It is an objective of Her Majesty’s Government to make every endeavour to facilitate the enactment of the statute described in subsection (1) prior to the ratification of the withdrawal agreement by the European Parliament.”

LORD JUDGE  
BARONESS TAYLOR OF BOLTON  
BARONESS SMITH OF NEWNHAM  
VISCOUNT HAILSHAM

52A★ Page 7, line 10, leave out subsection (2)

LORD LISVANE  
BARONESS HAYTER OF KENTISH TOWN  
LORD TYLER  
BARONESS WHEATCROFT

53 Page 7, line 11, leave out “(including modifying this Act)”

LORD CALLANAN

53A Page 7, line 13, after “taxation” insert “or fees”

LORD JUDGE  
BARONESS HAYTER OF KENTISH TOWN  
LORD MCNALLY  
VISCOUNT HAILSHAM

54 Page 7, line 15, leave out “relevant”

LORD CALLANAN

54A Page 7, line 15, after “offence,” insert –

- “( ) establish a public authority,”

**Clause 9 - continued**

BARONESS KENNEDY OF THE SHAWES

55 Page 7, line 17, at end insert—

“( ) amend or vary the provisions of the Immigration Act 1971 relating to passport control procedures on journeys within the Common Travel Area.”

**After Clause 9**

LORD DAVIES OF OLDHAM

LORD TUNNICLIFFE

LORD WIGLEY

56 Insert the following new Clause—

**“Economic outlook taking account of the terms of the withdrawal agreement**

- (1) Following the completion of negotiations between the United Kingdom and the EU on the terms of the withdrawal agreement, the Secretary of State must commission an economic outlook from the Office for Budget Responsibility.
- (2) The economic outlook provided for by subsection (1) must—
  - (a) take account of the terms of the withdrawal agreement, and
  - (b) be laid before both Houses of Parliament before Parliament considers legislation to approve the withdrawal agreement.”

LORD WIGLEY

57 Insert the following new Clause—

**“Failure to approve or agree to terms of withdrawal**

It is an objective of Her Majesty’s Government to ensure that—

- (a) in the event of Parliament not approving the terms of the United Kingdom’s withdrawal, or
- (b) in the event of there being no agreement with the EU,

notification of the United Kingdom’s withdrawal from the EU under Article 50 of the Treaty on the European Union be revoked.”

LORD HASKEL

BARONESS JONES OF MOULSECOOMB

58 Insert the following new Clause—

**“Governance and institutional arrangements**

- (1) Before exit day, a Minister of the Crown must make provision that all powers and functions which form part of retained EU law, which relate to any right, freedom or protection that any person might reasonably expect to exercise, which were carried out by EU entities or other public authorities anywhere in the United Kingdom before exit day, and which do not cease as a result of the withdrawal agreement (“relevant powers and functions”), will—
  - (a) continue to be carried out by an EU entity or public authority;
  - (b) be carried out by an appropriate existing or newly established entity or public authority in the United Kingdom; or

**After Clause 9 - continued**

- (c) be carried out by an appropriate international entity or public authority.
- (2) For the purposes of this section, relevant powers and functions include, but are not limited to—
- (a) monitoring and measuring compliance with legal requirements;
  - (b) reviewing and reporting on compliance with legal requirements;
  - (c) enforcement of legal requirements;
  - (d) setting standards or targets;
  - (e) co-ordinating action;
  - (f) publicising information.
- (3) Responsibility for any powers and functions as defined in subsection (1) for which no specific provision has been made immediately after commencement of this Act will belong to a relevant Minister until such a time as specific provision has been made.”

LORD DUBS  
LORD BASSAM OF BRIGHTON  
BARONESS SHEEHAN  
BARONESS BUTLER-SLOSS

59 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).”

THE EARL OF CLANCARTY  
LORD JUDD

60★ Insert the following new Clause—

**“Rights and opportunities of young people**

It is an objective of the Government, in negotiating a withdrawal agreement, to ensure that the rights and opportunities of British citizens aged under 25 and resident in the United Kingdom are maintained on existing terms including—

- (a) retaining the ability to work and travel visa-free in the EU, and
- (b) retaining the ability to study in other EU member States, including through participation in the Erasmus+ programme, on existing terms.”

**After Clause 9 - continued**

LORD BRADSHAW  
LORD BERKELEY  
LORD BILIMORIA

61 Insert the following new Clause—

**“Single market: frontier controls**

If no agreement is reached with the EU on frontier controls, taxes and charges, the free movement of goods and services, the Digital Single Market, standardisation and the full involvement of the United Kingdom in European Agencies by the day on which this Act is passed, then the Government's negotiating objectives under Article 50(2) of the Treaty on European Union shall be on the basis that the United Kingdom will seek to remain fully in the Single Market.”

LORD CORMACK  
LORD REID OF CARDOWAN  
LORD DEBEN  
LORD BALFE

62 Insert the following new Clause—

**“House of Commons motion on a withdrawal agreement or future relationship with the European Union**

If the House of Commons declines to approve a motion tabled in the name of a Minister of the Crown in respect of a withdrawal agreement or future relationship with the European Union, it must be the policy of Her Majesty's Government to maintain the existing arrangements and relationship with the European Union and to seek an extension to the period set out in Article 50(3) of the Treaty on European Union.”

63 [*Withdrawn*]

BARONESS YOUNG OF OLD SCONE  
LORD JUDD  
LORD LISVANE  
LORD TYLER

64 Insert the following new Clause—

**“Replication of EU law: consultation on impact and equivalence**

- (1) This section applies to regulations (whether or not under this Act) which—
- (a) are designed to replicate a provision of EU legislation (with or without modifications), or
  - (b) amend or replace legislation which was made under section 2(2) of the European Communities Act 1972 or which was otherwise made for the purpose of giving effect to EU obligations.

*After Clause 9 - continued*

- (2) Before making the regulations a Minister of the Crown must publish a statement that the Minister is satisfied that a draft has been published in such a manner, and for such a period, as to give persons representing interests affected by the regulations a reasonable opportunity to consider and make representations about –
  - (a) the environmental, social and other impacts of the regulations, and
  - (b) equivalence with EU legislation.
- (3) The period referred to in subsection (2) must not be less than 3 months, except where the Minister includes a statement that –
  - (a) the Minister is satisfied that 3 months' notice could not reasonably be given in the circumstances, and
  - (b) as much notice was given as the Minister considers reasonably practicable.
- (4) This section ceases to have effect on 31st December 2021 unless the Secretary of State by regulation continues it.”

BARONESS SMITH OF NEWNHAM  
 BARONESS LUDFORD  
 BARONESS D'SOUZA  
 LORD JUDD

65 Insert the following new Clause –

**“Rights of EU citizens**

- (1) A Minister of the Crown must by regulations made by statutory instrument make provision to maintain, preserve and protect the rights of any citizen of an EU member State who was lawfully resident in the United Kingdom immediately before exit day, and in particular to continue their right to be lawfully resident in the United Kingdom.
- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

BARONESS KENNEDY OF THE SHAWS  
 LORD JUDD

66 Insert the following new Clause –

**“Justice and home affairs measures**

It is an objective of the Government, in negotiating the withdrawal of the United Kingdom from the EU, to seek –

- (a) continued access to the European Union Agency for Law Enforcement Cooperation (Europol) and Eurojust;
- (b) continued participation in the European Arrest Warrant; and
- (c) agreement regarding the role of domestic courts and the European Court in cross-border cases relating to paragraphs (a) and (b) which may arise after exit day.”

*After Clause 9 - continued*

BARONESS KENNEDY OF THE SHAWES  
BARONESS BURT OF SOLIHULL

67 Insert the following new Clause—

**“Co-operation with the European Union on tackling violence against women and girls**

- (1) Within one month of the passing of this Act, and then once in every subsequent calendar year, the Secretary of State must lay before both Houses of Parliament a report on continued co-operation with the EU after exit day on tackling violence against women and girls.
- (2) That report must include, in particular, an assessment of how co-operation with the EU will replicate mechanisms which exist within the EU before exit day to—
  - (a) maintain common rights for victims of domestic and sexual abuse when moving across borders,
  - (b) reduce female genital mutilation,
  - (c) reduce human trafficking,
  - (d) reduce child sexual exploitation, and
  - (e) enable data sharing relating to paragraphs (a) to (d).”

68 Insert the following new Clause—

**“Co-operation with the European Union on child maintenance claims**

Within one month of the passing of this Act, and then once in every subsequent calendar year, the Secretary of State must lay before both Houses of Parliament a report containing an assessment of how, following exit day, co-operation between the United Kingdom and the EU will replicate mechanisms which exist within the EU to enforce cross-border child maintenance claims, and will enable data sharing in relation to such matters.”

69 Insert the following new Clause—

**“Funding for ending violence against women and girls**

- (1) Within one month of the passing of this Act, the Secretary of State must lay before both Houses of Parliament a report on the funding provided by the EU before exit day to organisations based in the United Kingdom for the purposes of research, service provision and other activities relating to ending violence against women and girls.
- (2) That report must include in particular—
  - (a) an assessment of the amount and nature of funding provided by EU institutions to organisations based in the United Kingdom for the purposes of research, service provision and other activities relating to ending violence against women and girls; and
  - (b) whether comparable resources for research, service provision and other activities relating to ending violence against women and girls will be made available in the United Kingdom.”

## Schedule 7

LORD CALLANAN

69A Page 41, line 41, leave out paragraphs (a) and (b)

69B Page 42, line 6, leave out “imposes, or otherwise”

LORD LISVANE

BARONESS SMITH OF BASILDON

LORD NORTON OF LOUTH

LORD SHARKEY

70 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.

**Schedule 7 - continued**

- (6) Nothing in this paragraph prevents a Minister of the Crown from deciding, at any time before a statutory instrument mentioned in subparagraph (1)(a) is made, that another procedure should apply in relation to the instrument.”

## LORD CALLANAN

**70A** Page 45, line 4, leave out “the House of Commons” and insert “each House of Parliament”

**70B** Page 45, line 9, leave out from “so” to end of line 16 and insert “and a committee of the House of Lords charged with doing so have, within the relevant period, each made a recommendation as to the appropriate procedure for the instrument.

(4A) Condition 3 is that the relevant period has ended without condition 2 being met.

(4B) In this paragraph “the relevant period” means the period –

- (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft instrument was laid before each House as mentioned in sub-paragraph (3)(b)(i), and
- (b) ending with whichever of the following is the later –
  - (i) the end of the period of 10 Commons sitting days beginning with that first day, and
  - (ii) the end of the period of 10 Lords sitting days beginning with that first day.

(4C) For the purposes of sub-paragraph (4B) –

- (a) where a draft of an instrument is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses,
- (b) “Commons sitting day” means a day on which the House of Commons is sitting, and
- (c) “Lords sitting day” means a day on which the House of Lords is sitting,

and, for the purposes of sub-paragraph (4B) and this sub-paragraph, a day is only a day on which the House of Commons or the House of Lords is sitting if the House concerned begins to sit on that day.”



## Schedule 7 - continued

LORD SHARKEY  
LORD LISVANE  
LORD NORTON OF LOUTH  
BARONESS JAY OF PADDINGTON

71 Page 45, line 23, at end insert –

*“Parliamentary scrutiny: reconsideration procedure*

- (1) If the House of Commons approves the draft of any statutory instrument containing regulations under this Act, or the draft of any statutory instrument under any other Act containing regulations with the same purpose as an instrument to which paragraph 1(3), 6(3), 7(3) or 11 of this Act applies, and the House of Lords subsequently does not come to a resolution approving the instrument but comes to a resolution, which may include reasons, that the House of Commons should reconsider the instrument, then if, after a period of not more than 10 sitting days beginning with the first sitting day after the House of Lords has come to such a resolution, the House of Commons by resolution confirms its previous decision, the instrument shall be treated as if the House of Lords had approved it and if not, it shall be treated as if the House of Lords had rejected it.
- (2) In this paragraph, reference to “sitting days” is reference to any day on which both Houses of Parliament sit.”

LORD SHARKEY  
LORD LISVANE  
BARONESS SMITH OF BASILDON  
LORD NORTON OF LOUTH

72 Page 45, line 32, leave out from “contains” to end of line 34 and insert –

- “(a) a declaration that the Minister of the Crown 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, and
- (b) a statement of the grounds for urgency.”

LORD CALLANAN

72A Page 46, line 28, leave out paragraphs (a) and (b)

72B Page 47, line 14, leave out paragraphs (a) and (b)

72C Page 47, line 22, leave out “imposes, or otherwise”

LORD HANNAY OF CHISWICK  
BARONESS HAYTER OF KENTISH TOWN  
BARONESS KRAMER  
LORD CORMACK

73 Page 48, line 2, leave out from “authority” to “, or” in line 4

**Schedule 7 - continued**

THE DUKE OF WELLINGTON  
LORD HANNAY OF CHISWICK  
BARONESS HAYTER OF KENTISH TOWN  
LORD NEWBY

**74** 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.”

LORD HANNAY OF CHISWICK  
LORD BEITH  
LORD GOLDSMITH  
BARONESS ALTMANN

**75** Page 48, line 26, leave out paragraph 11

**76** Page 48, line 29, leave out paragraph 12 and insert—

“12 A statutory instrument containing regulations under section 17(5) is subject to annulment in pursuance of a resolution of either House of Parliament.”

LORD LISVANE  
BARONESS SMITH OF BASILDON  
LORD SHARKEY

**77** Page 49, line 4, leave out paragraph 13

LORD CALLANAN

**77A** Page 49, line 16, leave out “the House of Commons” and insert “each House of Parliament”

**77B** Page 49, line 21, leave out from “so” to end of line 28 and insert “and a committee of the House of Lords charged with doing so have, within the relevant period, each made a recommendation as to the appropriate procedure for the instrument.

(4A) Condition 3 is that the relevant period has ended without condition 2 being met.

(4B) In this paragraph “the relevant period” means the period—

(a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft instrument was laid before each House of Parliament as mentioned in sub-paragraph (3)(b)(i), and

(b) ending with whichever of the following is the later—

(i) the end of the period of 10 Commons sitting days beginning with that first day, and

(ii) the end of the period of 10 Lords sitting days beginning with that first day.

(4C) For the purposes of sub-paragraph (4B)—

## Schedule 7 - continued

- (a) where a draft of an instrument is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses,
- (b) “Commons sitting day” means a day on which the House of Commons is sitting, and
- (c) “Lords sitting day” means a day on which the House of Lords is sitting,

and, for the purposes of sub-paragraph (4B) and this sub-paragraph, a day is only a day on which the House of Commons or the House of Lords is sitting if the House concerned begins to sit on that day.”

LORD SHARKEY  
LORD LISVANE  
BARONESS SMITH OF BASILDON  
LORD NORTON OF LOUTH

- 78 Page 50, line 3, leave out from “contains” to end of line 5 and insert –
- “(a) a declaration that the Minister of the Crown 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, and
  - (b) a statement of the grounds for urgency.”

LORD HANNAY OF CHISWICK  
LORD BEITH  
LORD GOLDSMITH  
BARONESS ALTMANN

- 79 Page 51, line 16, leave out sub-paragraphs (1) and (2)

- 80 Page 51, line 30, leave out sub-paragraph (4)

- 81 Page 51, line 40, leave out “or (4)”

LORD CALLANAN

- 82 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 come into force on or after exit day.”

LORD HANNAY OF CHISWICK  
LORD BEITH  
LORD GOLDSMITH  
BARONESS ALTMANN

- 83 Page 52, line 6, leave out paragraph 20

**Schedule 7 - continued**

LORD LOW OF DALSTON  
LORD WALLACE OF TANKERNESS  
BARONESS LISTER OF BURTERSETT  
LORD CASHMAN

**83A** Page 52, line 16, leave out “section 7(1), 8 or 9” and insert “this Act”

LORD CALLANAN

**83B** Page 52, line 17, leave out “or before the House of Commons only”

**83C** 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.”

BARONESS TAYLOR OF BOLTON  
LORD JUDGE

**83D★** Page 52, line 20, at end insert –

“( ) Before the instrument or draft is laid, the relevant Minister must lay before both Houses of Parliament a statement as to whether it does no more than make technical changes to ensure that retained EU law functions after exit day or whether a policy choice has been made.”

LORD LOW OF DALSTON  
LORD WALLACE OF TANKERNESS  
BARONESS LISTER OF BURTERSETT  
LORD CASHMAN

**83E** Page 52, leave out lines 29 to 31 and insert “is satisfied that it does not remove or diminish any protection provided by or under equalities legislation.”

LORD CALLANAN

**83F** Page 52, line 35, leave out “the reasons for it” and insert “its purpose”

**83G** 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.”

**83H** Page 52, line 39, after “(2),” insert “(2A),”

**83J** Page 53, line 1, after “(2),” insert “(2A),”

## Schedule 7 - continued

**83K** Page 53, line 10, leave out “or before the House of Commons only”

**83L** 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), 8 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.”

**Schedule 7 - continued**

83M 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), 8 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.”

BARONESS NEVILLE-ROLFE  
BARONESS D'SOUZA

84 Page 54, line 20, at end insert –

*“Advance publication of instruments*

No instrument containing regulations under section 7, 8, 9 or 17 may be laid before Parliament until an identical draft of the instrument has been published for a period of 10 days.”

**Clause 17**

LORD HANNAY OF CHISWICK  
LORD BEITH  
LORD GOLDSMITH  
BARONESS ALTMANN

85 Page 14, line 14, leave out subsections (1) to (3)

LORD LISVANE  
LORD GOLDSMITH  
LORD CORMACK  
LORD TYLER

86 Page 14, line 14, leave out “the Minister considers appropriate” and insert “is necessary”

**Clause 17 - continued**

- 87 Page 14, line 22, leave out “the Minister considers appropriate” and insert “is necessary”

**Before Clause 10**

LORD PATTEN OF BARNES  
LORD MURPHY OF TORFAEN  
BARONESS O'NEILL OF BENGARVE  
BARONESS SUTTIE

- 88 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 cooperation 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.”

**Schedule 2**

LORD WALLACE OF TANKERNESS

- 89 Page 17, line 35, at end insert –

“( ) No regulations may be made under this Part after the end of the period of two years beginning with exit day.”

LORD CALLANAN

- 89A Page 23, line 29, at end insert –

“( ) establish a public authority,”

**Schedule 2 - continued**

- 89B Page 26, line 27, at end insert –  
 “() establish a public authority,”

**Clause 11**

LORD WALLACE OF TANKERNESS  
 LORD STEEL OF AIKWOOD

- 90 Page 8, line 41, at end insert –  
 “() This section and Part 1 of Schedule 3 will cease to have effect after the end of the period of two years beginning with exit day.”

LORD WIGLEY  
 LORD STEEL OF AIKWOOD

- 91 Page 8, line 43, at end insert –  
 “() This section may not come into effect until –  
 (a) the Scottish Parliament has passed a resolution approving the provisions in subsection (1);  
 (b) the National Assembly for Wales has passed a resolution approving the provisions in subsection (2); and  
 (c) the Northern Ireland Assembly has passed a resolution approving the provisions in subsection (3).”

**After Clause 11**

LORD GRIFFITHS OF BURRY PORT  
 LORD STEVENSON OF BALMACARA  
 LORD WIGLEY  
 LORD WALLACE OF TANKERNESS

- 92 Insert the following new Clause –  
**“UK-wide frameworks**  
 (1) A Minister of the Crown must lay before each House of Parliament proposals for replacing European frameworks with UK ones.  
 (2) UK frameworks may be proposed only if they are necessary to –  
 (a) enable the functioning of the UK internal market,  
 (b) ensure compliance with international obligations,  
 (c) ensure that the United Kingdom can negotiate, enter into and implement new trade agreements and international treaties,  
 (d) enable the management of common resources,  
 (e) administer and provide access to justice in cases with a cross-border element, or  
 (f) safeguard the security of the United Kingdom.  
 (3) Ministers of the Crown may create UK-wide frameworks only if they have consulted with, and secured the agreement of, the affected devolved administrations.”



**After Clause 11 - continued**

LORD WIGLEY

**92A** Insert the following new Clause –**“Joint Ministerial Committee**

- (1) The Joint Ministerial Committee is to consist of –
  - (a) one member appointed by the Prime Minister of the United Kingdom;
  - (b) one member appointed by the First Minister of Scotland;
  - (c) one member appointed by the First Minister of Wales; and
  - (d) one member appointed by the First Minister and Deputy First Minister of Northern Ireland,or, if it is not possible to appoint four members, the member appointed by the Prime Minister under paragraph (a) and two members appointed under paragraphs (b) to (d).
- (2) The persons referred to in subsection (1) may –
  - (a) appoint themselves to the Joint Ministerial Committee; and
  - (b) appoint different members for different meetings of the Committee.
- (3) The Joint Ministerial Committee must be chaired by the member appointed by the Prime Minister.
- (4) Where there is a proposal from any member of the Joint Ministerial Committee for a decision to be made on any question, that proposal must be approved only where –
  - (a) in the case of there being four appointed members, there is an affirmative vote by at least three of its members;
  - (b) in the case of there being three appointed members, there is an affirmative vote by at least two of its members.
- (5) No recommendation is to be made to Her Majesty in Council to make an Order in Council under the provisions of section 11 of this Act without its having been first approved by the Joint Ministerial Committee.
- (6) No UK framework providing for agreed action on matters which were, on the day immediately preceding exit day, devolved to Scotland, Wales, or Northern Ireland may take effect without its having been first approved by the Joint Ministerial Committee.
- (7) In this section, “the Joint Ministerial Committee” means the body set up in accordance with Supplementary Agreement A of the Memorandum of Understanding on Devolution between Her Majesty’s Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive Committee.”

### Schedule 3

LORD CALLANAN

- 92B** 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.””
- 92C** 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”.”
- 92D** Page 32, line 14, at end insert –  
 “25A In section 16(3) (disqualification from being Assembly member) omit “(other than the United Kingdom)”.”
- 92E** 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.””
- 92F** 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”.”

### Before Clause 14

THE LORD BISHOP OF LEEDS  
 LORD GOLDSMITH  
 BARONESS MCINTOSH OF PICKERING  
 LORD TEVERSON

- 93** 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

LORD CALLANAN

94 Page 10, line 7, leave out “section 2” insert “sections 2 and (*Status of retained EU law*)”

THE DUKE OF WELLINGTON  
LORD HANNAY OF CHISWICK  
BARONESS HAYTER OF KENTISH TOWN  
LORD NEWBY

95 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));”

LORD WIGLEY

96 Page 10, line 40, leave out from “means” to end of line 41 and insert “the day concluding any implementation period or transition period agreed between the United Kingdom and the EU (and see subsections (2) to (5))”

LORD JUDGE  
BARONESS HAYTER OF KENTISH TOWN  
LORD MCNALLY  
VISCOUNT HAILSHAM

97 Page 11, leave out lines 8 to 12

LORD CALLANAN

98 Page 11, line 26, after “in” insert “section (*Status of retained EU law*) or”

THE DUKE OF WELLINGTON  
LORD HANNAY OF CHISWICK  
BARONESS HAYTER OF KENTISH TOWN  
LORD NEWBY

99 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.”

LORD CALLANAN

100 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**

LORD CALLANAN

101 Page 12, line 25, at end insert –

“Anything which is retained EU law by virtue of section 4 | Section 14(6A)”

102 Page 13, line 33, at end insert –

“Retained direct minor EU legislation | Section (*Status of retained EU law*)(6)  
Retained direct principal EU legislation | Section (*Status of retained EU law*)(6)”

**Schedule 4**

LORD O'DONNELL

LORD NEWBY

BARONESS HAYTER OF KENTISH TOWN

LORD BOWNESS

103 Page 35, line 26, leave out paragraph (c)

LORD KERR OF KINLOCHARD

BARONESS HAYTER OF KENTISH TOWN

BARONESS KRAMER

LORD CORMACK

104 Page 35, line 28, at end insert –

“( ) Regulations under this paragraph may not impose or increase taxation.”

**After Clause 13**

LORD STEPHEN

BARONESS JOLLY

105 Insert the following new Clause –

**“Duty to make arrangements for an independent evaluation: health and social care**

- (1) No later than one year after this Act is passed, the Secretary of State must make arrangements for the independent evaluation of the impact of this Act on the health and social care sector.
- (2) The evaluation must be carried out by an independent person to be appointed by the Secretary of State, after consulting the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland departments, and must analyse and assess –
  - (a) the effects of this Act on the funding of the health and social care sector;

**After Clause 13 - continued**

- (b) the effects of this Act on the health and social care workforce;
  - (c) the impact of this Act on the economy, efficiency and effectiveness of the health and social care sector; and
  - (d) any other matters relevant to the impact of this Act on the health and care sector.
- (3) The person undertaking an evaluation under subsection (1) above must, in preparing an evaluation report, consult –
- (a) the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland departments;
  - (b) providers of health and social care services;
  - (c) individuals requiring health and social care services;
  - (d) organisations working for and on behalf of individuals requiring health and social care services; and
  - (e) any other relevant persons.
- (4) The Secretary of State must, as soon as reasonably practicable after receiving a report of the evaluation, lay a copy of the report before both Houses of Parliament.”

**Clause 19**

LORD HANNAY OF CHISWICK  
LORD BEITH  
LORD GOLDSMITH  
BARONESS ALTMANN

106 Page 15, line 15, leave out paragraph (d)

LORD WIGLEY

107 Page 15, line 18, at end insert –

- “( ) But none of the sections of this Act, other than this section, may come into force until the Prime Minister is satisfied that resolutions have been passed by the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, signifying consent to the Act, unless –
- (a) direct rule is in place;
  - (b) the devolved legislature has been formally suspended; or
  - (c) the devolved legislature has been dissolved for reasons other than recess or an election.”

108 Page 15, line 19, at beginning insert “Subject to subsection (2A),”

**Clause 19 - continued**

LORD GOLDSMITH  
 VISCOUNT HAILSHAM  
 LORD WALLACE OF TANKERNESS  
 LORD KERR OF KINLOCHARD

109 Page 15, line 21, at end insert –

“( ) A Minister of the Crown may not appoint a day on which section 6 is to come into force unless this day follows the expiration of transitional arrangements agreed between the United Kingdom and the European Union.”

LORD WIGLEY

110 Page 15, line 21, at end insert –

“(2A) None of the sections of this Act to be commenced under subsection (2) may come into force unless it is an objective of Her Majesty’s Government, in negotiating a withdrawal agreement, to secure continued EU citizenship for UK citizens.”

**Schedule 8**

LORD CALLANAN

111 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

**Schedule 8 - continued**

- (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)—

**Schedule 8 - continued**

- (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.
- (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,



**Schedule 8 - continued**

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.”

**112** 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

**Schedule 8 - continued**

- (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).

**Schedule 8 - continued**

- (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.”

**112A** 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—

**Schedule 8 - continued**

- (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.”

**113** Page 61, line 2, at beginning insert “This paragraph has effect”

**114** 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.”

**115** Page 61, line 5, leave out “sub-paragraph (1)” and insert “this paragraph “amend”,”

**116** Page 64, line 15, leave out “3 months” and insert “two years”

**117** 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.”

**Schedule 9**

LORD ADONIS

**118** Page 67, leave out line 38

# European Union (Withdrawal) Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*19 April 2018*

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