

European Union (Withdrawal) Bill

AMENDMENTS
TO BE MOVED
ON REPORT

[Supplementary to the Third Marshalled List]

Schedule 7

LORD CALLANAN

Page 47, line 37, at end insert –

“Power to repeal provisions relating to retained EU law restrictions

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

Page 53, line 16, at end insert –

“22AA(1) This paragraph applies where –

- (a) a Scottish statutory instrument containing regulations under Part 1 or 3 of Schedule 2 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or
- (b) a draft of such an instrument,

is to be laid before the Scottish Parliament.

- (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why it is appropriate to create a relevant sub-delegated power.
- (3) If the Scottish Ministers fail to make a statement required by sub-paragraph (2) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.
- (4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
- (5) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to –
 - (a) amending a power to legislate which is exercisable by Scottish statutory instrument by a member of the Scottish Government so that it becomes a relevant sub-delegated power, or

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- (b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.
- (6) In this paragraph “relevant sub-delegated power” means a power to legislate which—
 - (a) is not exercisable by Scottish statutory instrument, or
 - (b) is so exercisable by a public authority other than a member of the Scottish Government.”

Page 53, line 16, at end insert —

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

Schedule 2

LORD CALLANAN

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

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

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

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

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

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- Page 18, line 4, leave out paragraphs 3 and 4 and insert –
- “3A(1) No provision may be made by the Scottish Ministers acting alone in regulations under this Part so far as the provision –
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of –
 - (i) the restriction in section 30A(1) of the Scotland Act 1998 if the provision were made in an Act of the Scottish Parliament, or
 - (ii) the restriction in section 57(4) of the Act of 1998 if section 57(5)(b) of that Act so far as relating to this Schedule were ignored.
- (2) No provision may be made by the Welsh Ministers acting alone in regulations under this Part so far as the provision –
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of –
 - (i) the restriction in section 80(8) of the Government of Wales Act 2006 if section 80(8A)(b) of that Act so far as relating to this Schedule were ignored, or
 - (ii) the restriction in section 109A(1) of that Act if the provision were made in an Act of the National Assembly for Wales.
- (3) No provision may be made by a Northern Ireland department acting alone in regulations under this Part so far as the provision –
- (a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and
 - (b) would, when made, be in breach of –
 - (i) the restriction in section 6A(1) of the Northern Ireland Act 1998 if the provision were made in an Act of the Northern Ireland Assembly, or
 - (ii) the restriction in section 24(3) of the Act of 1998 if section 24(4)(b) of that Act so far as relating to this Schedule were ignored.
- (4) No provision may be made by a devolved authority acting alone in regulations under this Part so far as, when made, the provision is inconsistent with any modification (whether or not in force) which –
- (a) is a modification of any retained direct EU legislation or anything which is retained EU law by virtue of section 4,
 - (b) is made by this Act or a Minister of the Crown under this Act, and
 - (c) could not be made by the devolved authority by virtue of subparagraph (1), (2) or (as the case may be) (3).

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

Page 19, line 5, after "Ministers" insert "acting alone"

Page 19, line 9, after "department" insert "acting alone"

Page 19, line 19, after "authority" insert "acting alone"

Page 19, line 34, after "(b)" insert "and of a devolved authority acting alone or (as the case may be) other person acting alone"

Page 20, line 31, after "Ministers" insert "acting alone"

Page 20, line 36, after "Ministers" insert "acting alone"

Page 20, line 42, after "Ministers" insert "acting alone"

Page 21, line 2, after "department" insert "acting alone"

Page 21, line 35, after "Advocate" insert "acting alone"

Page 22, line 11, after "Ministers" insert "acting alone"

Page 22, line 43, after "authority" insert "acting alone"

Page 26, line 25, after "taxation" insert "or fees"

Page 26, line 28, leave out paragraph (d)

Page 26, line 37, leave out sub-paragraph (5)

Page 26, line 41, leave out from "under" to "are" and insert "sub-paragraph (1)"

Page 27, line 2, leave out "regulations" and insert "provision"

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Page 27, line 2, leave out from “made” to “unless” and insert “by a devolved authority acting alone in regulations under this Part”

Page 27, line 3, leave out “every provision of them” and insert “the provision”

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

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

Schedule 2 - continued

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

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

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

Clause 11

LORD CALLANAN

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

- “(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for the Scottish Parliament to legislate incompatibly with EU law) for “with EU law” substitute “in breach of the restriction in section 30A(1)”.
- (2) After section 30 of that Act (legislative competence: supplementary) insert—
- “30A Legislative competence: restriction relating to retained EU law**
- (1) An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Parliament.
- (3) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless—
- (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
- (b) the 40 day period has ended without the Parliament having made such a decision.
- (4) For the purposes of subsection (3) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
- (b) a decision not to agree a motion consenting to the laying of the draft, or
- (c) a decision to agree a motion refusing to consent to the laying of the draft;

Clause 11 - *continued*

and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
 - (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Scottish Parliament which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) In this section—

“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,

and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”

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

(3A) After section 109 of that Act (legislative competence: supplementary) insert—

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

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the Assembly’s legislative competence.
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—
 - (a) the Assembly has made a consent decision in relation to the laying of the draft, or

Clause 11 - *continued*

- (b) the 40 day period has ended without the Assembly having made such a decision.
- (5) For the purposes of subsection (4) a consent decision is –
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must –
- (a) provide a copy of the draft to the Welsh Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section –
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,
- and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”
- (3B) In section 6(2)(d) of the Northern Ireland Act 1998 (no competence for the Northern Ireland Assembly to legislate incompatibly with EU law) for “incompatible with EU law” substitute “in breach of the restriction in section 6A(1)”.
- (3C) After section 6 of that Act (legislative competence) insert –

“6A Restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.

Clause 11 - *continued*

- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Assembly.
- (3) A Minister of the Crown must not lay for approval before each House of Parliament a draft of a statutory instrument containing regulations under this section unless –
 - (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (4) For the purposes of subsection (3) a consent decision is –
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must –
 - (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also section 96A (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) Regulations under this section may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (12) In this section –
 - “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;
 - “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,

Clause 11 - continued

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.””

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

Page 8, line 41, at end insert –

- “(4A) Part 1A of Schedule 3 (which imposes reporting obligations on a Minister of the Crown in recognition of the fact that the powers to make regulations conferred by subsections (1) to (3C) and Part 1 of Schedule 3, and any restrictions arising by virtue of them, are intended to be temporary) has effect.
- (4B) A Minister of the Crown may by regulations –
- (a) repeal any of the following provisions –
 - (i) section 30A or 57(4) to (15) of the Scotland Act 1998,
 - (ii) section 80(8) to (8L) or 109A of the Government of Wales Act 2006, or
 - (iii) section 6A or 24(3) to (15) of the Northern Ireland Act 1998, or
 - (b) modify any enactment in consequence of any such repeal.
- (4C) Until all of the provisions mentioned in subsection (4B)(a) have been repealed, a Minister of the Crown must, after the end of each review period, consider whether it is appropriate –
- (a) to repeal each of those provisions so far as it has not been repealed, or
 - (b) to revoke any regulations made under any of those provisions so far as they have not been revoked.
- (4D) In considering whether to exercise the power to make regulations under subsection (4B), a Minister of the Crown must have regard (among other things) to –
- (a) the fact that the powers to make regulations conferred by the provisions mentioned in subsection (4B)(a), and any restrictions arising by virtue of them, are intended to be temporary and, where appropriate, replaced with other arrangements, and
 - (b) any progress which has been made in implementing those other arrangements.”

Page 8, line 42, leave out “other”

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

Page 8, line 43, at end insert –

- “(6) In this section –
- “arrangement” means any enactment or other arrangement (whether or not legally enforceable);
 - “review period” means –

Clause 11 - continued

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

Schedule 3

LORD CALLANAN

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

- (5) But subsection (4) does not apply –
 - (a) so far as the modification would be within the legislative competence of the Parliament if it were included in an Act of the Scottish Parliament, or
 - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (6) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under subsection (4) unless –
 - (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Parliament having made such a decision.
- (7) For the purposes of subsection (6) a consent decision is –
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (8) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (6) must –
 - (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (9) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4) including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (10) No regulations may be made under subsection (4) after the end of the period of two years beginning with exit day.
- (11) Subsection (10) does not affect the continuation in force of regulations made under subsection (4) at or before the end of the period mentioned in subsection (10).
- (12) Any regulations under subsection (4) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.

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

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

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

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and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.

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

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

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

Schedule 3 - continued

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

Page 29, line 44, at end insert—

“PART 1A

REPORTS IN CONNECTION WITH RETAINED EU LAW RESTRICTIONS

Schedule 3 - continued*Reports on progress towards removing retained EU law restrictions*

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

Interpretation

- 3B In this Part—
- "appropriate authority" means—

Schedule 3 - continued

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, or
- (c) a Northern Ireland devolved authority;

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

“relevant power” means a power to make regulations conferred by –

- (a) section 30A or 57(4) of the Scotland Act 1998,
- (b) section 80(8) or 109A of the Government of Wales Act 2006, or
- (c) section 6A or 24(3) of the Northern Ireland Act 1998;

“relevant regulations” means regulations made under a relevant power;

“retained EU law restriction” means any restriction which arises by virtue of relevant regulations.”

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

“Section 30A |Type C”.”

Page 32, leave out line 2 and insert –

““Section 57(4) |Type C”.”

Page 32, line 2, at end insert –

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

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

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

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

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

(i) must make a statement explaining why the Minister has decided to lay the draft despite this, and

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

Schedule 3 - continued

- (3) A statement of a Minister of the Crown under sub-paragraph (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this paragraph, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This paragraph does not apply to a draft of an instrument which only contains regulations under section 30A or 57(4) which only relate to a revocation of a specification.””

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

Page 33, line 20, at end insert –

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

“157ZA Explanatory statements in relation to certain regulations

- (1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument –
 - (a) must make a statement explaining the effect of the instrument, and
 - (b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft –
 - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
 - (ii) must lay before each House of Parliament any statement provided for the purpose of this sub- paragraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the Assembly has not made that decision.
- (3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification.””

Page 34, line 34, at end insert –

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

- “(4A) Regulations under section 6A or 24(3) –
- (a) shall be made by statutory instrument, and

Schedule 3 - continued

(b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

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

“96A Explanatory statements in relation to certain regulations

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

Clause 19

LORD CALLANAN

Page 15, line 12, at end insert –

“() paragraphs 3A, 3B, 19(2)(b), 40(b), 43(2)(c) and (d) and (4) of Schedule 3 (and section 11 (4A) and (5) so far as relating to those paragraphs),”

Page 15, line 15, at end insert –

“() paragraph 29(9), 30A and 31 of Schedule 8 (and section 17 (6) so far as relating to those paragraphs),”

Page 15, line 18, at end insert –

“(1A) In section 11 –

Clause 19 - continued

- (a) subsection (2) comes into force on the day on which this Act is passed for the purposes of making regulations under section 30A of the Scotland Act 1998,
- (b) subsection (3A) comes into force on that day for the purposes of making regulations under section 109A of the Government of Wales Act 2006, and
- (c) subsection (3C) comes into force on that day for the purposes of making regulations under section 6A of the Northern Ireland Act 1998.

(1B) In Schedule 3 –

- (a) paragraph 1(b) comes into force on the day on which this Act is passed for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
- (b) paragraph 2 comes into force on that day for the purposes of making regulations under section 80(8) of the Government of Wales Act 2006,
- (c) paragraph 3(b) comes into force on that day for the purposes of making regulations under section 24(3) of the Northern Ireland Act 1998,
- (d) paragraph 21(2) comes into force on that day for the purposes of making regulations under section 30A of the Scotland Act 1998,
- (e) paragraph 21(3) comes into force on that day for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
- (f) paragraph 21A comes into force on that day for the purposes of making regulations under section 30A or 57(4) of the Scotland Act 1998,
- (g) paragraph 36A comes into force on that day for the purposes of making regulations under section 80(8) or 109A of the Government of Wales Act 2006, and
- (h) paragraphs 48A and 48B come into force on that day for the purposes of making regulations under section 6A or 24(3) of the Northern Ireland Act 1998;

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

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

Schedule 8

LORD CALLANAN

Page 60, line 38, leave out “29(4A)” and insert “30A(1)”

Page 66, line 43, at end insert –

“30A A consent decision of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly made before the day on which this Act is passed, or the commencement of the 40-day period before the day on which this Act is passed, is as effective for the purposes of –

Schedule 8 - *continued*

- (a) section 30A(3) or 57(6) of the Scotland Act 1998,
- (b) section 80(8C) or 109A(4) of the Government of Wales Act 2006, or
- (c) section 6A(3) or 24(5) of the Northern Ireland Act 1998,

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

European Union (Withdrawal) Bill

AMENDMENTS
TO BE MOVED
ON REPORT

25 April 2018
