

European Union (Withdrawal) Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the revised Order of 25th April 2018, as follows –

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

*The amendments have not been renumbered
[Amendments marked ★ are new or have been altered]*

**Amendment
No.**

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.

Before Clause 9 - continued

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

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.

Before Clause 9 - continued

- (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 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
LORD CALLANAN

- 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”

Clause 9 - continued

LORD CALLANAN

- 54A Page 7, line 15, after “offence,” insert –
 “() establish a public authority,”

BARONESS KENNEDY OF THE SHAWS

- 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.”

BARONESS MASSEY OF DARWEN

LORD JUDD

BARONESS MEACHER

THE EARL OF DUNDEE

- 55A Page 7, line 17, at end insert –
 “(e) make any provision without giving consideration to Part I of the United Nations Convention on the Rights of the Child ratified by the United Kingdom.
 (3A) The condition in subsection 2(e) is fulfilled if, and only if, a Minister of the Crown lays before both Houses of Parliament –
 (a) a Ministerial Statement committing to give due consideration to Part I of UNCRC ratified by the United Kingdom when carrying out duties and functions that were within the competence of the EU before exit day, or when exercising powers under this section or powers under section 7 to prevent, remedy or mitigate deficiencies; and
 (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.”

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.”

After Clause 9 - continued

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
 - (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.”

After Clause 9 - continued

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.”

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.”

After Clause 9 - continued

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.
- (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.”

After Clause 9 - continued

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.”

BARONESS KENNEDY OF THE SHAWS
 BARONESS BURT OF SOLIHULL
 LORD RUSSELL OF LIVERPOOL

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,

After Clause 9 - continued

- (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.”

69ZA [Withdrawn]

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

LORD CALLANAN

86A Page 14, line 19, at end insert –

“() No regulations may be made under subsection (1) after the end of the period of 10 years beginning with exit day.”

LORD LISVANE
LORD GOLDSMITH
LORD CORMACK
LORD TYLER

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 CALLANAN

88A Page 17, line 29, leave out from “under” to end of line 29 and insert “sub-paragraph (1) above”

88B Page 17, line 30, leave out from “8” to end of line 35

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

89ZZA Page 17, line 37, leave out “regulations” and insert “provision”

89ZZB Page 17, line 37, leave out from “made” to “unless” and insert “by a devolved authority acting alone in regulations under this Part”

89ZZC Page 17, line 38, leave out “every provision of them” and insert “the provision”

89ZZD 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 –

Schedule 2 - continued

- (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 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.”

89ZZE	Page 19, line 5, after “Ministers” insert “acting alone”
89ZZF	Page 19, line 9, after “department” insert “acting alone”
89ZZG	Page 19, line 19, after “authority” insert “acting alone”
89ZZH	Page 19, line 34, after “(b)” insert “and of a devolved authority acting alone or (as the case may be) other person acting alone”
89ZZJ	Page 20, line 31, after “Ministers” insert “acting alone”
89ZZK	Page 20, line 36, after “Ministers” insert “acting alone”
89ZZL	Page 20, line 42, after “Ministers” insert “acting alone”
89ZZM	Page 21, line 2, after “department” insert “acting alone”
89ZZN	Page 21, line 35, after “Advocate” insert “acting alone”

Schedule 2 - continued

- 89ZZP** Page 22, line 11, after “Ministers” insert “acting alone”
- 89ZZQ** Page 22, line 43, after “authority” insert “acting alone”
- 89ZA** Page 23, line 14, leave out paragraphs 13 to 20
- 89A** [*Withdrawn*]
- 89AA** Page 26, line 25, after “taxation” insert “or fees”
- 89B** Page 26, line 27, at end insert –
“() establish a public authority,”
- 89BA** Page 26, line 28, leave out paragraph (d)
- 89BB** Page 26, line 37, leave out sub-paragraph (5)
- 89BC** Page 26, line 41, leave out from “under” to “are” and insert “sub-paragraph (1)”
- 89BD** Page 27, line 2, leave out “regulations” and insert “provision”
- 89BE** Page 27, line 2, leave out from “made” to “unless” and insert “by a devolved authority acting alone in regulations under this Part”
- 89BF** Page 27, line 3, leave out “every provision of them” and insert “the provision”
- 89C** Page 27, line 5, leave out sub-paragraph (2) and insert –
“(2) See paragraphs 27 to 29 for the meaning of “devolved competence” for the purposes of this Part.”
- 89CA** 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.

Schedule 2 - continued

- (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 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.”

89CB Page 28, line 2, leave out “without the consent of a Minister of the Crown”

89CC Page 28, line 5, at end insert “, unless the regulations are, to that extent, made after consulting with the Secretary of State”

Schedule 2 - continued

89D Page 28, line 16, at end insert –

“Meaning of devolved competence: Part 3

- 27 A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if –
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or
 - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).
- 28 A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if –
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
 - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).
- 29 A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if –
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly –
 - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and
 - (ii) would not require the consent of the Secretary of State,
 - (b) the provision –
 - (i) amends or repeals Northern Ireland legislation, and
 - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or
 - (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).”

Clause 11

LORD CALLANAN

89DA Page 7, line 25, leave out subsections (1) to (3) and insert—

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

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

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

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

(2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Parliament.

(3) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless—

- (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
- (b) the 40 day period has ended without the Parliament having made such a decision.

(4) For the purposes of subsection (3) a consent decision is—

- (a) a decision to agree a motion consenting to the laying of the draft,
- (b) a decision not to agree a motion consenting to the laying of the draft, or
- (c) a decision to agree a motion refusing to consent to the laying of the draft;

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

(5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—

- (a) provide a copy of the draft to the Scottish Ministers, and
- (b) inform the Presiding Officer that a copy has been so provided.

(6) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Parliament).

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

(8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

(9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Scottish Parliament which receives Royal Assent after the end of that period.

Clause 11 - continued

(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

(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).

Clause 11 - *continued*

- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section –
 - “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,
 - and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”

(3B) In section 6(2)(d) of the Northern Ireland Act 1998 (no competence for the Northern Ireland Assembly to legislate incompatibly with EU law) for “incompatible with EU law” substitute “in breach of the restriction in section 6A(1)”.

(3C) After section 6 of that Act (legislative competence) insert –

“6A Restriction relating to retained EU law

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

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

Clause 11 - *continued*

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

89DB Page 8, line 40, leave out “(3)” and insert “(3C)”

89DC 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

Clause 11 - continued

- (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.”

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 CALLANAN

90A Page 8, line 42, leave out “other”

90B Page 8, line 43, after “legislation” insert “not dealt with elsewhere”

90C Page 8, line 43, at end insert—

“(6) In this section—

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

“review period” means—

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

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

Clause 11 - continued

- (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.”

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.

After Clause 11 - continued

- (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

92AA

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;

Schedule 3 - 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).
- (8) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (6) must—
- (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (9) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4) including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (10) No regulations may be made under subsection (4) after the end of the period of two years beginning with exit day.
- (11) Subsection (10) does not affect the continuation in force of regulations made under subsection (4) at or before the end of the period mentioned in subsection (10).
- (12) Any regulations under subsection (4) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (13) Subsections (6) to (11) do not apply in relation to regulations which only relate to a revocation of a specification.
- (14) The restriction in subsection (4) is in addition to any restriction in section (*Status of retained EU law*) of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a member of the Scottish Government to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,
- and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”

92AB

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—

Schedule 3 - continued

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

92AC

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.

Schedule 3 - continued

- (4) But subsection (3) does not apply –
 - (a) so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or
 - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (5) A Minister of the Crown must not lay for approval before each House of the Parliament a draft of a statutory instrument containing regulations under subsection (3) unless –
 - (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (6) For the purposes of subsection (5) a consent decision is –
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must –
 - (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.
- (10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).
- (11) Any regulations under subsection (3) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.
- (13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.

Schedule 3 - continued

- (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.”

92AD Page 29, line 44, at end insert –

“PART 1A

REPORTS IN CONNECTION WITH RETAINED EU LAW RESTRICTIONS

Reports on progress towards removing retained EU law restrictions

- 3A(1) After the end of each reporting period, a Minister of the Crown must lay before each House of Parliament a report which –
- (a) contains details of any steps which have been taken in the reporting period by Her Majesty’s Government (whether or not in conjunction with any of the appropriate authorities) towards implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,
 - (b) explains how principles –
 - (i) agreed between Her Majesty’s Government and any of the appropriate authorities, and
 - (ii) relating to implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,
 have been taken into account during the reporting period,
 - (c) specifies any relevant regulations, or regulations under section 11(4B), which have been made in the reporting period,
 - (d) in relation to any retained EU law restriction which has effect at the end of the reporting period, sets out the Minister’s assessment of the progress which still needs to be made before it can be removed,
 - (e) in relation to any relevant power that has not been repealed before the end of the reporting period, sets out the Minister’s assessment of the progress which still needs to be made before it can be repealed, and
 - (f) contains any other information relating to any relevant powers or retained EU law restrictions, or the arrangements which are to replace them, that the Minister considers appropriate.

Schedule 3 - continued

- (2) The first reporting period is the period of three months beginning with the day on which this Act is passed.
- (3) Each successive period of three months after the first reporting period is a reporting period.
- (4) A Minister of the Crown must provide a copy of every report laid before Parliament under this section—
 - (a) to the Scottish Ministers,
 - (b) to the Welsh Ministers, and
 - (c) either to the First Minister in Northern Ireland and the deputy First Minister in Northern Ireland or to the relevant Northern Ireland department and its Northern Ireland Minister.
- (5) In sub-paragraph (4) “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate.
- (6) This paragraph ceases to apply when no retained EU law restrictions have effect and all the relevant powers have been repealed.

Interpretation

3B In this Part—

“appropriate authority” means—

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

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

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

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

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

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

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.””

92BA Page 31, line 34, leave out from “section” to end of line 35 and insert “30 insert—

“Section 30A

|Type C”.”

Schedule 3 - continued

92BB Page 32, leave out line 2 and insert –

““Section 57(4) |Type C”.”

92BC Page 32, line 2, at end insert –

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

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

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

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

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

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

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

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

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

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

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”.”

Schedule 3 - continued

- 92D** Page 32, line 14, at end insert –
“25A In section 16(3) (disqualification from being Assembly member) omit “(other than the United Kingdom).”
- 92DA** Page 33, line 7, leave out sub-paragraph (7)
- 92DB** 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.””
- 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.””
- 92EA** Page 34, line 34, at end insert –
“48A After section 96(4)(orders and regulations) insert –

Schedule 3 - continued

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

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

“96A Explanatory statements in relation to certain regulations

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

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—

Clause 14 - continued

- (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 CALLANAN

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

LORD O'DONNELL

LORD NEWBY

BARONESS HAYTER OF KENTISH TOWN

LORD BOWNESS

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

Schedule 4 - continued

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.”

LORD CALLANAN

- 104A** Page 37, line 12, at end insert –
“Time limit for making certain provision
 4A(1) Subject to sub-paragraph (2), no regulations may be made under paragraph 1 after the end of the period of two years beginning with exit day.
 (2) After the end of that period, regulations may be made under paragraph 1 for the purposes of –
 (a) revoking any provision made under that paragraph,
 (b) altering the amount of any of the fees or charges that are to be charged under any provision made under that paragraph,
 (c) altering how any of the fees or charges that are to be charged under any provision made under that paragraph are to be determined, or
 (d) otherwise altering the fees or charges that may be charged in relation to anything in respect of which fees or charges may be charged under any provision made under that paragraph.
 (3) This paragraph does not affect the continuation in force of any regulations made at or before the end of the period mentioned in sub-paragraph (1) (including the exercise after the end of that period of any power conferred by regulations made under that paragraph at or before the end of that period).”

- 104B** Page 37, line 14, leave out “, 8”

- 104C** Page 38, line 19, leave out “, 8”

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.

After Clause 13 - continued

- (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;
 - (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 CALLANAN

105A

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),”

LORD HANNAY OF CHISWICK

LORD BEITH

LORD GOLDSMITH

BARONESS ALTMANN

106

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

LORD CALLANAN

106A

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),”

106B

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.”

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 CALLANAN

- 108A** 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),”

LORD GOLDSMITH
 VISCOUNT HAILSHAM
 LORD WALLACE OF TANKERNESSE
 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 in 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 7

LORD CALLANAN

- 69A** Page 41, line 41, leave out paragraphs (a) and (b)
- 69B** Page 42, line 6, leave out “imposes, or otherwise”
- 69C** Page 42, line 35, at end insert –
 “(9A) See paragraph 3A for restrictions on the choice of procedure under sub-paragraph (9).”
- 69D** Page 43, line 1, leave out “paragraph 4” and insert “paragraphs 4 to 4C”

LORD LISVANE
 BARONESS SMITH OF BASILDON
 LORD NORTON OF LOUETH
 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

Schedule 7 - continued

- (b) is of the opinion that the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament (“the negative procedure”).
- (2) Before making the instrument, the Minister must lay before both Houses of Parliament a draft of the instrument together with a memorandum setting out the reasons for the Minister’s opinion that the instrument should be subject to the negative procedure.
- (3) The negative procedure applies unless within the relevant period either House of Parliament requires the affirmative procedure to apply, in which case the affirmative procedure applies.
- (4) A House of Parliament is taken to have required the affirmative procedure to apply within the relevant period if—
- (a) a committee of the House charged with reporting on the instrument has recommended, within the period of 10 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House, that the affirmative procedure should apply, and
 - (b) that House has not by resolution rejected the recommendation within a period of 5 sitting days beginning with the first sitting day after the day on which the recommendation is made, or
 - (c) irrespective of the committee reporting on the instrument, that House has resolved, within the period of 15 sitting days beginning with the first sitting day after the day on which the draft instrument was laid before the House, that the affirmative procedure should apply to the instrument.
- (5) For the purposes of this paragraph—
- (a) where an instrument is subject to the affirmative procedure, it may not be made unless the draft of the instrument laid under sub-paragraph (2) has been approved by a resolution of each House of Parliament,
 - (b) “sitting day” means, in respect of either House, a day on which that House sits.
- (6) Nothing in this paragraph prevents a Minister of the Crown from deciding, at any time before a statutory instrument mentioned in 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—

Schedule 7 - continued

- (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.”

70C Page 45, line 23, at end insert –

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

- 3A(1) Sub-paragraph (2) applies if the Welsh Ministers are to make a statutory instrument to which paragraph 1(9) applies and are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (2) The Welsh Ministers may not make the instrument so that it is subject to that procedure unless –
 - (a) condition 1 is met, and
 - (b) either condition 2 or 3 is met.
 - (3) Condition 1 is that the Welsh Ministers –
 - (a) have made a statement in writing to the effect that in their opinion the instrument should be subject to annulment in pursuance of a resolution of the National Assembly for Wales, and
 - (b) have laid before the Assembly –
 - (i) a draft of the instrument, and
 - (ii) a memorandum setting out the statement and the reasons for the Welsh Ministers’ opinion.
 - (4) Condition 2 is that a committee of the National Assembly for Wales charged with doing so has made a recommendation as to the appropriate procedure for the instrument.

Schedule 7 - continued

- (5) Condition 3 is that the period of 14 days beginning with the first day after the day on which the draft instrument was laid before the National Assembly for Wales as mentioned in sub-paragraph (3) has ended without any recommendation being made as mentioned in sub-paragraph (4).
- (6) In calculating the period of 14 days, no account is to be taken of any time during which the National Assembly for Wales is—
 - (a) dissolved, or
 - (b) in recess for more than four days.
- (7) Nothing in this paragraph prevents the Welsh Ministers from deciding at any time before a statutory instrument to which paragraph 1(9) applies is made that another procedure should apply to the instrument (whether under paragraph 1(9) or 4B).
- (8) Section 6(1) of the Statutory Instruments Act 1946 as applied by section 11A of that Act (alternative procedure for certain instruments laid in draft before the Assembly) does not apply in relation to any statutory instrument to which this paragraph applies.
- (9) The references in this paragraph to paragraph 1(9) do not include references to paragraph 1(9) as applied by paragraph 7(5)(for which see paragraph 13A).”

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.”

Schedule 7 - continued

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

- 72ZA Page 45, line 38, leave out “one month” and insert “28 days”

- 72ZB Page 45, line 42, leave out “one month” and insert “28 days”

- 72ZC Page 46, line 14, at end insert –

“Scrutiny procedure in certain urgent cases: devolved authorities

- 4A(1) This paragraph applies to –
 (a) regulations to which paragraph 1(6) applies, or
 (b) regulations to which paragraph 1(7) applies which would not otherwise be made without being subject to the affirmative procedure.
- (2) The regulations may be made without being subject to the affirmative procedure if the regulations contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to that procedure.
- (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Scottish Parliament.
- (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Scottish Parliament is –
 (a) dissolved, or
 (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not –
 (a) affect the validity of anything previously done under the regulations, or
 (b) prevent the making of new regulations.
- (7) The references in this paragraph to paragraph 1(6) or (7) do not include references to paragraph 1(6) or (7) as applied by paragraph 7(5) (for which see paragraph 14(6A)).
- 4B(1) Sub-paragraph (2) applies to –
 (a) a statutory instrument to which paragraph 1(8) applies, or

Schedule 7 - continued

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

Schedule 7 - continued

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

- 72ZD** Page 46, line 22, leave out paragraph 6
- 72A** [*Withdrawn*]
- 72B** Page 47, line 14, leave out paragraphs (a) and (b)
- 72C** Page 47, line 22, leave out “imposes, or otherwise”
- 72D** Page 47, line 24, at end insert “or”
- 72E** Page 47, line 25, leave out from “legislate” to end of line 26
- 72EA** 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.”
- 72F** Page 47, line 40, leave out “paragraph 1 of”

Schedule 7 - continued

72G Page 47, line 40, leave out “falling within sub-paragraph (2)” and insert “which does not relate to altering the amount of a fee or charge to reflect changes in the value of money”

72H Page 47, line 43, leave out sub-paragraph (2)

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

LORD CALLANAN

73A Page 48, line 14, leave out from “under” to end of line 15 and insert “Schedule 4 which does not relate to altering the amount of a fee or charge to reflect changes in the value of money.”

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

LORD CALLANAN

75A Page 48, line 26, after “is” insert “(if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament)”

75B Page 48, line 27, at end insert –

“(2) See paragraph 13 for restrictions on the choice of procedure under sub-paragraph (1).”

Schedule 7 - continued

LORD HANNAY OF CHISWICK
LORD BEITH
LORD GOLDSMITH
BARONESS ALTMANN

- 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

- 77ZA** Page 49, line 5, leave out “6(3) or”

- 77ZB** Page 49, line 5, after “7(3)” and insert “or 11”

- 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)—

(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,

Schedule 7 - continued

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.”

77C Page 49, line 30, leave out “6(3) or”

77D Page 49, line 30, after “7(3)” insert “or 11”

77E Page 49, line 35, at end insert –

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

- 13A Paragraph 3A applies to regulations under Part 3 of Schedule 2 as it applies to regulations under Part 1 of that Schedule but as if –
- (a) the references to paragraph 1(9) were references to paragraph 1(9) as applied by paragraph 7(5),
 - (b) the reference to paragraph 4B were a reference to that paragraph as applied by paragraph 14(6A), and
 - (c) paragraph 3A(9) were omitted.”

77F Page 49, line 38, leave out “, 6(1)”

77G Page 49, line 40, leave out “6(3),”

77H Page 49, line 40, leave out “or 8(3)” and insert “, 8(3) or 11”

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 CALLANAN

78A Page 50, line 9, leave out “one month” and insert “28 days”

78B Page 50, line 13, leave out “one month” and insert “28 days”

78C Page 50, line 21, at end insert –

- “(6A) Paragraphs 4A to 4C apply to regulations under Part 3 of Schedule 2 as they apply to regulations under Part 1 of that Schedule but as if –
- (a) the references to paragraphs 1(6), (7), (8), (9), (10) or (11) were references to those provisions as applied by paragraph 7(5),

Schedule 7 - continued

- (b) the reference in paragraph 4B(8) to paragraph 3A were a reference to that paragraph as applied by paragraph 13A, and
 (c) paragraphs 4A(7), 4B(9) and 4C(7) were omitted.”

78D Page 50, line 22, leave out “6(3) or”

78E Page 50, line 23, after “7(3)” insert “or 11”

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

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

83AA Page 52, line 16, leave out “, 8”

83AB Page 52, line 16, leave out “or 9” and insert “, 9 or 17(1)”

83AC Page 52, line 16, after “9” insert “or paragraph 1(2) or 21(2) of Schedule 2”

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- 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
LORD BEITH
LORD DUNLOP
- 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),”
- 83K** Page 53, line 10, leave out “or before the House of Commons only”
- 83KA** Page 53, line 16, at end insert –
“22ZA(1) This paragraph applies where –

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- (a) a Scottish statutory instrument containing regulations under Part 1 or 3 of Schedule 2, or
 - (b) a draft of such an instrument,is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that in the Scottish Ministers' opinion the instrument or draft does no more than is appropriate.
- (3) Before the instrument or draft is laid, the Scottish Ministers must make a statement as to why, in the Scottish Ministers' opinion—
 - (a) there are good reasons for the instrument or draft, and
 - (b) the provision made by the instrument or draft is a reasonable course of action.
- (4) Before the instrument or draft is laid, the Scottish Ministers must make a statement—
 - (a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and
 - (b) if it does, explaining the effect of each such amendment, repeal or revocation.
- (5) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that, in relation to the instrument or draft, the Scottish Ministers have, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (6) Before the instrument or draft is laid, the Scottish Ministers must make a statement otherwise explaining—
 - (a) the instrument or draft,
 - (b) its purpose,
 - (c) the law before exit day which is relevant to it, and
 - (d) its effect (if any) on retained EU law.
- (7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the Scottish Ministers' opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.
- (8) If the Scottish Ministers fail to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.
- (9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
- (10) In this paragraph "equalities legislation" means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts."

Schedule 7 - continued

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) 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

83LA Page 53, line 16, at end insert—

- “22AA(1) This paragraph applies where—
- (a) a Scottish statutory instrument containing regulations under Part 1 or 3 of Schedule 2 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or
 - (b) a draft of such an instrument,
- is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why it is appropriate to create a relevant sub-delegated power.
 - (3) If the Scottish Ministers fail to make a statement required by sub-paragraph (2) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.
 - (4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
 - (5) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to—
 - (a) amending a power to legislate which is exercisable by Scottish statutory instrument by a member of the Scottish Government so that it becomes a relevant sub-delegated power, or
 - (b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.
 - (6) In this paragraph “relevant sub-delegated power” means a power to legislate which—
 - (a) is not exercisable by Scottish statutory instrument, or
 - (b) is so exercisable by a public authority other than a member of the Scottish Government.”

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) 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.

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- (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.”

83MA 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.”

83N Page 53, line 16, at end insert—

“Further explanatory statements in urgency cases

- 22C(1) This paragraph applies where a statutory instrument containing regulations under this Act is to be made by virtue of paragraph 4(2) or 14(2).
- (2) The Minister of the Crown who is to make the instrument must make a statement in writing explaining the reasons for the Minister’s opinion that, by reason of urgency, it is necessary to make the regulations without a draft of the instrument containing them being laid before, and approved by a resolution of, each House of Parliament.
- (3) A statement under sub-paragraph (2) must be published before, or at the same time as, the instrument as made is laid before each House of Parliament.
- (4) If the Minister—
 (a) fails to make the statement required by sub-paragraph (2) before the instrument is made, or
 (b) fails to publish it as required by sub-paragraph (3),

Schedule 7 - continued

a Minister of the Crown must make a statement explaining the failure.

- (5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (6) For the purposes of this paragraph, where an instrument is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.”

83P

Page 53, line 16, at end insert –

- “22D(1) This paragraph applies where regulations are to be made by the Scottish Ministers under this Act by virtue of paragraph 4A(2) (whether or not as applied by paragraph 14(6A)).
- (2) The Scottish Ministers must make a statement in writing explaining the reasons for the Scottish Ministers’ opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to the affirmative procedure.
 - (3) A statement under sub-paragraph (2) must be published before, or at the same time as, the regulations as made are laid before the Scottish Parliament.
 - (4) If the Scottish Ministers –
 - (a) fail to make the statement required by sub-paragraph (2) before the regulations are made, or
 - (b) fail to publish it as required by sub-paragraph (3),
 they must make a statement explaining the failure.
 - (5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.”

83Q

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

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

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.”

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

- (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—

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- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
- (b) modifies (otherwise than as a connected modification and otherwise than by way of amending or revoking it) any retained direct minor EU legislation,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.

- (5) Any subordinate legislation which—
 - (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
 - (b) modifies as a connected modification any retained direct EU legislation or anything which is retained EU law by virtue of section 4,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to the modification to which it is connected.

- (6) Any provision which may be made, confirmed or approved by virtue of paragraph 3A may be included in the same instrument as any other provision which may be so made, confirmed or approved.
- (7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.
- (8) The order of procedures is as follows (the highest first)—
 - (a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
 - (b) a procedure which requires the approval of the instrument in draft before it is made,
 - (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
 - (d) a procedure which provides for the annulment of the instrument after it is made,
 - (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
 - (f) no procedure.

- (9) The references in this paragraph to amending or repealing an enactment contained in primary legislation or amending or revoking an enactment contained in subordinate legislation do not include references to amending or repealing or (as the case may be) amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.

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- (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,
- 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.

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- 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
 - (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).

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

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,

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is to be laid before each House of Parliament or before the House of Commons only.

- (2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.
- (3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining –
 - (a) the law which is relevant to the amendment or revocation, and
 - (b) the effect of the amendment or revocation on retained EU law.
- (4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid –
 - (a) a Minister of the Crown, or
 - (b) where the relevant authority is not a Minister of the Crown, the relevant authority,
 must make a statement explaining why the relevant authority has failed to make the statement as so required.
- (5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the person making it considers appropriate.
- (6) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (7) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after exit day including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).
- (8) This paragraph does not apply in relation to any laying before each House of Parliament, or before the House of Commons only, of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses or before the House of Commons only.
- (9) In this paragraph “the relevant authority” means –
 - (a) in the case of an Order in Council or Order of Council, the Minister of the Crown who has responsibility in relation to the instrument,
 - (b) in the case of any other statutory instrument which is not made by a Minister of the Crown, the person who makes, or is to make, the instrument, and
 - (c) in any other case, the Minister of the Crown who makes, or is to make, the instrument.”

112B

Page 56, line 32, at end insert –

- “5E(1) This paragraph applies where, on or after exit day –
- (a) a Scottish statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or
 - (b) a draft of such an instrument,

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is to be laid before the Scottish Parliament.

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

112C Page 60, line 38, leave out “29(4A)” and insert “30A(1)”

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”,”

115A Page 61, line 33, at end insert –

“21A In section 30 (other instruments laid before the Scottish Parliament), after subsection (6) insert –

- “(7) This section does not apply in relation to any regulations made in accordance with paragraph 4A of Schedule 7 to the European Union (Withdrawal) Act 2018 (including that paragraph as applied by paragraph 14(6A) of that Schedule).”

Schedule 8 - continued

- 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.”
- 117A** Page 64, line 31, leave out “, 8”
- 117B** Page 64, line 31, leave out “or 9” and insert “, 9 or 17(1)”
- 117C** Page 66, line 43, at end insert –
“30A A consent decision of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly made before the day on which this Act is passed, or the commencement of the 40-day period before the day on which this Act is passed, is as effective for the purposes of –
(a) section 30A(3) or 57(6) of the Scotland Act 1998,
(b) section 80(8C) or 109A(4) of the Government of Wales Act 2006, or
(c) section 6A(3) or 24(5) of the Northern Ireland Act 1998,
as a consent decision made, or (as the case may be) the commencement of that period, on or after that day.”

Schedule 9

LORD ADONIS

- 118** Page 67, leave out line 38

European Union (Withdrawal) Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

26 April 2018
