

# European Union (Withdrawal) Bill

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SIXTH  
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 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.”

**Before Clause 14 - continued**

LORD ALLI  
BARONESS VERMA  
LORD BILIMORIA

*As an amendment to Amendment 93*

- 93ZA★** After paragraph (b) insert—  
“(c) negotiating continued membership of the European Economic Area, and its corresponding agreements.”

**Clause 14**

LORD CALLANAN

- 93A** Page 9, line 42, at end insert—  
“( ) an enactment contained in any Order in Council made in exercise of Her Majesty’s Prerogative,”
- 93B** Page 10, line 6, after “legislation,” insert—  
“( ) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England,”
- 93C** Page 10, line 6, after “legislation,” insert—  
“( ) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,”
- 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))”

**Clause 14 - continued**

LORD JUDGE  
 BARONESS HAYTER OF KENTISH TOWN  
 LORD MCNALLY  
 VISCOUNT HAILSHAM

97 Page 11, leave out lines 8 to 12

LORD CALLANAN

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

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

99 Page 11, line 38, leave out subsections (2) to (5) and insert –

“(2) In this Act –

- (a) where a Minister of the Crown appoints a time as well as a day as exit day (see paragraph 19 of Schedule 7), references to before, after or on that day, or to beginning with that day, are to be read as references to before, after or at that time on that day or (as the case may be) to beginning with that time on that day, and
- (b) where a Minister of the Crown does not appoint a time as well as a day as exit day, the reference to exit day in section 1 is to be read as a reference to the beginning of that day.”

LORD CALLANAN

100 Page 12, line 6, at end insert –

“(6A) In this Act references to anything which is retained EU law by virtue of section 4 include references to any modifications, made by or under this Act or by other domestic law from time to time, of the rights, powers, liabilities, obligations, restrictions, remedies or procedures concerned.”

**Clause 15**

LORD CALLANAN

101 Page 12, line 25, at end insert –

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

**Clause 15 - continued**

102 Page 13, line 33, at end insert –

|  |  |
|--|--|
| “Retained direct minor EU legislation    | Section ( <i>Status of retained EU law</i> )(6)  |
| Retained direct principal EU legislation | Section ( <i>Status of retained EU law</i> )(6)” |

**Clause 12**

LORD BERKELEY

102ZA Page 9, line 16, at end insert –

“( ) Regulations under this Act may not require recipients of EU funding for UK based projects to guarantee any claim against the Government to return such funding after exit day.”

**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)

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,

**Schedule 4 - continued**

- (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 subparagraph (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.
- (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.

**After Clause 13 - continued**

- (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

**106ZA** Page 15, line 15, leave out “(3)” and insert “(3A)”**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 –

- (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,

**Clause 19 - continued**

- (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),”

## 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 TANKERNESS  
 LORD KERR OF KINLOCHARD

109 Page 15, line 21, at end insert –

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

**Clause 19 - continued**

LORD WIGLEY  
LORD TEVERSON

**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.”

LORD ALLI  
BARONESS VERMA  
LORD BILIMORIA

**110A★** Page 15, line 21, at end insert –

“(2B) But none of the remaining provisions may come into force until it is a negotiating objective of the Government to ensure that an international agreement has been made which enables the United Kingdom to continue to participate in the European Economic Area after exit day.

(2C) Regulations under this Act may not repeal or amend subsection (2B).”

**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 subparagraph (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 LOUTH  
LORD SHARKEY

**70** Page 44, line 35, leave out from beginning to end of line 20 on page 45 and insert –

“*Parliamentary committees to sift regulations made under section 7, 8, 9 or 17*

3 (1) This paragraph applies if a Minister of the Crown –

- (a) proposes to make a statutory instrument, whether under this Act or any other Act of Parliament, to which paragraph 1(3), 6(3), 7(3), or 11 applies or which has the same purpose as an instrument to which those paragraphs apply, and
- (b) is of the opinion that the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament (“the negative procedure”).

**Schedule 7 - continued**

- (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 –
    - (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 subparagraph (3)(b)(i), and
    - (b) ending with whichever of the following is the later –

**Schedule 7 - continued**

- (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.”

LORD KIRKWOOD OF KIRKHOPE  
 BARONESS WATKINS OF TAVISTOCK  
*As an amendment to Amendment 70B*

**70BA** In sub-paragraph (4B)(b)(i), leave out “10” and insert “15”

*As an amendment to Amendment 70B*

**70BB** In sub-paragraph (4B)(b)(ii), leave out “10” and insert “15”

LORD CALLANAN

**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.

**Schedule 7 - continued**

- (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.
- (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.”

LORD KIRKWOOD OF KIRKHOPE  
BARONESS WATKINS OF TAVISTOCK  
*As an amendment to Amendment 77B*

**77BA** In sub-paragraph (4B)(b)(i), leave out “10” and insert “15”

*As an amendment to Amendment 77B*

**77BB** In sub-paragraph (4B)(b)(ii), leave out “10” and insert “15”

LORD CALLANAN

**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”

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**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),
  - (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”

**Schedule 7 - continued**

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”
- 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),”

**Schedule 7 - continued**

- 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 –
- (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.

## Schedule 7 - continued

- (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.”

**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;

**Schedule 7 - continued**

“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.”

**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

**Schedule 7 - continued**

- (b) once laid—
  - (i) provide a copy of it to a Minister of the Crown, and
  - (ii) publish it in such manner as the person considers appropriate.
- (3) In this paragraph—
  - “relevant sub-delegated power” has the same meaning as in paragraph 22A;
  - “relevant year” means—
    - (a) in the case of a person who prepares an annual report, the year by reference to which the report is prepared, and
    - (b) in any other case, the calendar year.”

**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.

**Schedule 7 - continued**

- (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),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.”

**Schedule 7 - continued**

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,

**Schedule 8 - continued**

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or repealing an enactment contained in primary legislation.

- (3) Any subordinate legislation which—
- (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3A, and
  - (b) amends or revokes any retained direct minor EU legislation,

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

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

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

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

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

- (6) Any provision which may be made, confirmed or approved by virtue of paragraph 3A may be included in the same instrument as any other provision which may be so made, confirmed or approved.
- (7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.
- (8) The order of procedures is as follows (the highest first)—
- (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,

**Schedule 8 - continued**

- (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
  - (d) a procedure which provides for the annulment of the instrument after it is made,
  - (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
  - (f) no procedure.
- (9) The references in this paragraph to amending or repealing an enactment contained in primary legislation or amending or revoking an enactment contained in subordinate legislation do not include references to amending or repealing or (as the case may be) amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.
- (10) In this paragraph “connected modification” means a modification which is supplementary, incidental, consequential, transitional or transitory, or a saving, in connection with—
- (a) another modification under the power of retained direct EU legislation or anything which is retained EU law by virtue of section 4, or
  - (b) anything else done under the power.
- 3C(1) This paragraph applies to any power to make, confirm or approve subordinate legislation—
- (a) which was conferred before the day on which this Act is passed, and
  - (b) is not capable of being exercised as mentioned in paragraph 3A(1)(b) or is only capable of being so exercised in relation to Northern Ireland legislation which is an Order in Council.
- (2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read—
- (a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
  - (b) so far as the context permits or requires,
- as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct minor EU legislation.
- (3) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of)—
- (a) any retained direct principal EU legislation, or
  - (b) anything which is retained EU law by virtue of section 4,
- 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).

**Schedule 8 - continued**

- (4) Any power to which this paragraph applies so far as it is a power to make, confirm or approve transitional, transitory or saving provision is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) –
- (a) any retained direct EU legislation, or
  - (b) anything which is retained EU law by virtue of section 4.
- 3D Any subordinate legislation which is, or is to be, made, confirmed or approved by virtue of paragraph 3C(2), (3) or (4) is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were doing anything else under the power.
- 3E Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read on or after exit day without that restriction or any corresponding restriction in relation to compatibility with retained EU law.
- 3F (1) Paragraphs 3A to 3E and this paragraph –
- (a) do not prevent the conferral of wider powers,
  - (b) do not apply so far as section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or section 24(3) of the Northern Ireland Act 1998 applies (or would apply when in force on and after exit day), and
  - (c) are subject to any other provision made by or under this Act or any other enactment.
- (2) For the purposes of paragraphs 3A and 3C –
- (a) a power is conferred whether or not it is in force, and
  - (b) a power in retained direct EU legislation is not conferred before the day on which this Act is passed.
- (3) A power which, by virtue of paragraph 3A or 3C or any Act of Parliament passed before, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before exit day so as to come into force on or after exit day.”

**112**

Page 56, line 26, leave out paragraph 5 and insert –

- “5A(1) This paragraph applies to any power to make, confirm or approve subordinate legislation which is conferred on or after the day on which this Act is passed.
- (2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) may –
- (a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
  - (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.

**Schedule 8 - continued**

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

**Schedule 8 - continued**

**112A** Page 56, line 32, at end insert—

*“Explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the ECA*

5D(1) This paragraph applies where, on or after exit day—

- (a) a statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or
- (b) a draft of such an instrument,

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

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

**Schedule 8 - continued**

- (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,
- 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.”

**112BA** Page 59, line 31, after “law” insert “, “retained direct minor EU legislation”, “retained direct principal EU legislation””

**112BB** Page 59, line 33, after “6(7)” insert “, (*Status of retained EU law*)(6)”

LORD ALLI  
BARONESS VERMA  
LORD BILIMORIA

**112BC★** Page 60, line 2, at end insert “, but only if it is a negotiating objective of Her Majesty's Government to ensure that an international agreement has been made which enables the United Kingdom to participate in the European Economic Area after exit day.”

**Schedule 8 - continued**

## LORD CALLANAN

- 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).”
- 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)”
- 117BA** Page 64, line 40, leave out “and in force”
- 117BB** Page 64, line 40, leave out from “day,” to end of line 42 and insert –  
    “(b) any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before exit day, or  
    (c) any other subordinate legislation made before exit day.”
- 117BC** Page 64, line 43, leave out “(5) and”
- 117BD** Page 64, line 44, leave out “or (b)” and insert “, (b) or (c)”

**Schedule 8 - continued**

- 117BE** Page 65, line 6, at end insert “and”
- 117BF** Page 65, line 7, leave out from “there” to “when” in line 10 and insert “are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”
- 117BG** Page 65, line 12, leave out from “provision” to “in” and insert “were made and the regulations were”
- 117BH** Page 65, line 19, at end insert “and”
- 117BJ** Page 65, line 20, leave out from “there” to “when” in line 23 and insert “are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”
- 117BK** Page 65, line 25, leave out from “provision” to “in” and insert “were made and the regulations were”
- 117BL** Page 65, line 32, at end insert “and”
- 117BM** Page 65, line 33, leave out from “there” to “when” in line 36 and insert “are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section”
- 117BN** Page 65, line 38, leave out from “provision” to “in” and insert “were made and the regulations were”
- 117BP** Page 65, line 43, at end insert “and”
- 117BQ** Page 65, line 44, leave out from “there” to “when” in line 47 and insert “are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”
- 117BR** Page 66, line 3, leave out “Order was made and” and insert “regulations were”
- 117BS** Page 66, line 7, at end insert “and”
- 117BT** Page 66, line 8, leave out from “there” to “, so” in line 11 and insert “are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”

**Schedule 8 - continued**

- 117BU** Page 66, line 18, leave out “Order was made and” and insert “regulations were”
- 117BV** Page 66, line 22, at end insert “and”
- 117BW** Page 66, line 23, leave out from “there” to “when” in line 26 and insert “are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection”
- 117BX** Page 66, line 32, leave out “Order was made and” and insert “regulations were”
- 117BY** Page 66, line 32, at end insert –  
 “( ) For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in –  
 (a) sections 30A(1) and 57(4) of the Scotland Act 1998,  
 (b) sections 80(8) and 109A(1) of the Government of Wales Act 2006,  
 and  
 (c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998,  
 come into force on exit day.”
- 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

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SIXTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*3 May 2018*

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