

European Union (Withdrawal) Bill

TENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 7th February 2018, as follows –

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

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 11

LORD BLENCATHRA

305 Page 7, leave out lines 37 and 38

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF
LORD WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

306 Page 7, line 39, leave out subsection (2) and insert –

“(2) In section 108A(2)(e) of the Government of Wales Act 2006 (legislative competence of the National Assembly for Wales), omit “or with EU law”.”

306A *[Withdrawn]*

LORD BLENCATHRA

307 Page 8, leave out lines 11 to 17

Clause 11 - *continued*

308 [Withdrawn]

BARONESS LISTER OF BURTERSETT
LORD JUDD
LORD CASHMAN

308ZA Page 8, line 18, leave out subsection (3) and insert –

- “(3) In section 6 of the Northern Ireland Act 1998 (legislative competence), in subsection (2)(d) (no competence for the Assembly to legislate incompatibly with EU law), for “incompatible with EU law” substitute “incompatible with the provisions of European Union law, including the Charter of Fundamental Rights, that provide a supporting framework to the rights, safeguards and equality of opportunity set out in that part of the Belfast Agreement entitled Rights, Safeguards and Equality of Opportunity, including in the area of protection against discrimination as enshrined in the provisions of Union law”.
- (3A) In section 24 of the Northern Ireland Act 1998 (EU law, Convention rights etc.), in subsection (1)(b) (no power for a Minister or Department to act incompatibly with EU law), for “incompatible with EU law” substitute “incompatible with the provisions of European Union law, including the Charter of Fundamental Rights, that provide a supporting framework to the rights, safeguards and equality of opportunity set out in that part of the Belfast Agreement entitled Rights, Safeguards, and Equality of Opportunity, including in the area of protection against discrimination as enshrined in the provisions of Union law”.”

308A [Withdrawn]

LORD BLENCATHRA

309 Page 8, leave out lines 30 to 38

LORD FOULKES OF CUMNOCK

310 Page 8, line 38, at end insert –

- “() This section applies only to –
- (a) an Act of the Scottish Parliament,
 - (b) an Act of the National Assembly for Wales; and
 - (c) an Act of the Northern Ireland Assembly,
- which was introduced to the Parliament or Assembly, as the case may be, after exit day.”

LORD CALLANAN

310A Page 8, line 40, leave out “(3)” and insert “(3C)”

Clause 11 - *continued*

310B 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 (6) of the Scotland Act 1998,
 - (ii) section 80(8) to (8C) or 109A of the Government of Wales Act 2006, or
 - (iii) section 6A or 24(3) to (7) of the Northern Ireland Act 1998, or
 - (b) modify any enactment in consequence of any such repeal.
- (4C) Until all of the provisions mentioned in subsection (4B)(a) have been repealed, a Minister of the Crown must, after the end of each review period, consider whether it is appropriate to repeal each of those provisions so far as it has not been repealed.
- (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 FOULKES OF CUMNOCK

311 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 WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

312 Page 8, line 41, at end insert—

- “() This section and Part 1 of Schedule 2 will cease to have effect after the end of the period of two years beginning with exit day.”

LORD CALLANAN

312A Page 8, line 42, leave out “other”

312B Page 8, line 43, after “legislation” insert “not dealt with elsewhere”

312C Page 8, line 43, at end insert—

- “(6) In this section—

Clause 11 - continued

“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

313 Page 8, line 43, at end insert –

“() This section may not come into effect until –

- (a) the Scottish Parliament has passed a resolution approving the provisions in subsection (1);
- (b) the National Assembly for Wales has passed a resolution approving the provisions in subsection (2); and
- (c) the Northern Ireland Assembly has passed a resolution approving the provisions in subsection (3).”

313A [*Withdrawn*]

LORD ADONIS

LORD WIGLEY

BARONESS FINLAY OF LLANDAFF

LORD THOMAS OF GRESFORD

The above-named Lords give notice of their intention to oppose the Question that Clause 11 stand part of the Bill.

After Clause 11

LORD HOPE OF CRAIGHEAD

LORD BEITH

BARONESS MCINTOSH OF PICKERING

BARONESS FINLAY OF LLANDAFF

314 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 UK 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 UK.

After Clause 11 - continued

- (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.”

BARONESS BUTLER-SLOSS
LORD CHIDGEY
BARONESS HOOPER

315 Insert the following new Clause—

“Saving of acquired rights: Gibraltar

- (1) Nothing in this Act is to be construed as removing, replacing, altering or prejudicing the exercise of an acquired right.
- (2) Any power, howsoever expressed, contained in this Act may not be exercised if the exercise of that power is likely to or will remove, replace or alter or prejudice the exercise of an acquired right.
- (3) In subsection (2) a reference to a power includes a power to make regulations.
- (4) In this section an acquired right means a right that existed immediately before exit day whereby—
 - (a) a person from or established in Gibraltar could exercise that right (either absolutely or subject to any qualification) in the United Kingdom; and
 - (b) the right arose in the context of the United Kingdom’s membership of the EU and Gibraltar’s status as a European territory for whose external relations the United Kingdom is responsible within the meaning of Article 355(3) TFEU and to which the provisions of the EU Treaties apply, subject to the exceptions specified in the 1972 Act of Accession.
- (5) Nothing in this section prevents the use of the powers conferred by this Act to the extent that acquired rights are not altered or otherwise affected to the detriment of persons enjoying such rights.
- (6) In this section, reference to the “1972 Act of Accession” is reference to the treaty concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and to the European Atomic Energy Community.”

LORD BASSAM OF BRIGHTON

316 Insert the following new Clause—

“Impact on the Belfast Agreement: reporting requirements

Within one month of the passing of this Act, a Minister of the Crown must lay before both Houses of Parliament an assessment of the impact of this Act and the United Kingdom’s withdrawal from the EU on the Belfast Agreement.”

After Clause 11 - continued

LORD WIGLEY
 BARONESS JONES OF MOULSECOOMB
 BARONESS BROWN OF CAMBRIDGE
 LORD JUDD

317 Insert the following new Clause—

“Common frameworks for environmental protection

Within one month of the passing of this Act, a Minister of the Crown and the devolved authorities must jointly publish for consultation proposals for replicating the common EU frameworks that will apply in the United Kingdom immediately before exit day with the purpose of—

- (a) achieving compliance with international environmental commitments;
- (b) establishing minimum common environmental objectives, harmonisation and standards, which aim at a high level of protection;
- (c) promoting sustainable development; and
- (d) facilitating the prudent and rational management of common resources after exit day.”

LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD
 BARONESS FINLAY OF LLANDAFF

318 Insert the following new Clause—

“Role of Joint Ministerial Committee

- (1) The Joint Ministerial Committee is to be a forum—
 - (a) for discussing—
 - (i) the terms upon which the United Kingdom is to withdraw from the European Union and the United Kingdom’s future relationship with the EU;
 - (ii) proposals to amend retained EU law;
 - (iii) the legal and policy frameworks in relation to how retained EU law is to operate throughout the United Kingdom;
 - (iv) a concordat setting out the process for concluding the legal and policy frameworks mentioned in sub-paragraph (iii); and
 - (b) for seeking a consensus on the above mentioned matters between the Government and the other members of the Joint Ministerial Committee.
- (2) Within the period of one month of the passing of this Act, the Secretary of State must produce a document for consideration by the Joint Ministerial Committee setting out—
 - (a) the Government’s objectives and strategy in negotiating and concluding a withdrawal agreement;
 - (b) the Government’s objectives and strategy in relation to establishing a framework for the United Kingdom’s future relationship with the European Union;
 - (c) the steps the Government intends to take to keep the Joint Ministerial Committee informed of progress in reaching a withdrawal agreement;

After Clause 11 - continued

- (d) the steps the Government intends to take to consult each member of the Joint Ministerial Committee before entering into a withdrawal agreement and how the Government intends to take the views of each member into account;
 - (e) the steps the Government intends to take to seek the approval of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly before entering into a withdrawal agreement.
- (3) Until a withdrawal agreement is concluded, the Secretary of State must produce a report every three months for consideration by the Joint Ministerial Committee setting out—
- (a) the Government’s assessment of the progress made against their objectives—
 - (i) to negotiate and conclude the withdrawal agreement;
 - (ii) to establish a framework for the United Kingdom’s future relationship with the European Union;
 - (b) any change to the matters listed in subsection (2)(a) to (e).
- (4) Before concluding a withdrawal agreement, the Prime Minister must produce a document setting out the terms of the proposed withdrawal agreement for consideration by the Joint Ministerial Committee.
- (5) Meetings of the Joint Ministerial Committee must, until Her Majesty’s Government concludes a withdrawal agreement, be chaired by—
- (a) the Prime Minister, or
 - (b) the Secretary of State for Exiting the European Union.
- (6) 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.”

LORD MACKAY OF CLASHFERN

318A Insert the following new Clause—

“Group on framework documents

- (1) A group to represent England, Wales, Scotland and Northern Ireland is established.
- (2) The representative of England must be the Secretary of State responsible for the area which the group are considering.
- (3) The representative of Northern Ireland must be a senior official of the Department responsible for the area which the group are considering.
- (4) The representative of Scotland must be a Minister of the Scottish Government.
- (5) The representative of Wales must be a member of the Welsh Government.
- (6) At the first meeting of the group, the group must elect a Chair.
- (7) The first question the group must decide is which of the devolved areas of competence to include in a framework document enabling a single market to be set up in those areas in the United Kingdom.

After Clause 11 - continued

- (8) The second question the group must decide is the terms of the framework document for each of the devolved areas of competence which the group has decided to include.
- (9) Agreement on the two questions in subsections (7) and (8) must be reached by the end of the period of three months, beginning with exit day or the day on which any transition or implementation period agreed between the United Kingdom and the EU ends.
- (10) When agreement is reached in the group on the answer to these questions, the Chair of the group must report the decisions to the appropriate officer of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and the Parliament of the United Kingdom.
- (11) If the group fail to reach unanimous agreement on any of the questions the Chair must report this to the appropriate officer of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and the United Kingdom Parliament with a statement of the reason or reasons for the disagreement, as agreed by the group.
- (12) The United Kingdom Parliament may decide the undecided issues under subsection (11) and may legislate accordingly.”

LORD WIGLEY

As an amendment to Amendment 318A

318AA

Leave out subsection (12) and insert—

- “(12) In the event of there not being unanimous agreement, the matter must be referred to a Speakers’ Panel to decide the matter.
- (13) The Speakers’ Panel shall consist of the Speaker of the House of Commons together with the Presiding Officers of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.
- (14) The Panel may call witnesses or take legal advice, or both, before adjudicating on the matter.
- (15) In reaching conclusions and proposing any course of action, the Panel must take into consideration—
 - (a) whether it is reasonable, in all the circumstances, to confirm the proposed course of action in any area in which the group established in subsection (1) failed to agree;
 - (b) whether it is practical not to take such a course of action;
 - (c) whether the proposed course of action may have a discriminatory, disproportionately negative or constraining impact on any one of England, Scotland, Wales or Northern Ireland.
- (16) The Panel must convey their decision to each of the legislatures and to the Parliament of the United Kingdom, each of which may take the necessary steps to implement the decision according to the existing division of competences under the devolution settlements.
- (17) The Panel may, if they consider it necessary, refer any question to the Supreme Court of the United Kingdom.”

After Clause 11 - *continued*

LORD FOULKES OF CUMNOCK

318B Insert the following new Clause—

“Withdrawal arrangements ministerial council

- (1) A withdrawal arrangements ministerial council (“the council”) comprising—
 - (a) the Prime Minister or another Minister nominated by the Prime Minister,
 - (b) the First Minister of Scotland or another Scottish Minister nominated by the First Minister,
 - (c) the First Minister of Wales or another Minister of the Welsh Government nominated by the First Minister, and
 - (d) the First Minister and Deputy First Minister of Northern Ireland or other Ministers (not exceeding two) nominated by the First Minister and the Deputy First Ministeris established.
- (2) The council must before exit day review the powers returning from the EU to the United Kingdom as a result of the United Kingdom leaving the EU and must determine which of those powers will be reserved to the United Kingdom Parliament and which will be devolved matters.”

318C Insert the following new Clause—

“Withdrawal arrangements advisory panel

- (1) In the event that the council under section (*Withdrawal arrangements ministerial council*) cannot reach a decision as to which of the powers shall be devolved, the council must refer the issue to the withdrawal arrangements advisory panel (the “advisory panel”).
- (2) The members of the advisory panel are appointed by the Speaker and Presiding Officer Committee, comprising the Speaker of the House of Commons, the Presiding Officer of the Scottish Parliament, the Presiding Officer of the National Assembly for Wales and the Speaker of the Northern Ireland Assembly.
- (3) The members of the advisory panel must have such qualifications, skills and knowledge as the Speaker and Presiding Officer Committee may prescribe.
- (4) The advisory panel must recommend to the council what powers referred to them should be reserved or devolved.
- (5) The members of the council must consider the recommendations of the advisory panel and may accept or reject them.
- (6) If a member of the council rejects the recommendations of the advisory panel, they must state reasons for that rejection.
- (7) Recommendations must be adopted by the council on a simple majority.”

After Clause 11 - continued

318D Insert the following new Clause—

“Withdrawal arrangements: implementation

- (1) A Minister of the Crown must by regulations make provision to implement the recommendations adopted by the council under section (*Withdrawal arrangements ministerial council*) or (*Withdrawal arrangements advisory panel*).
- (2) The Scottish Ministers must by regulations make provision to implement the recommendations adopted by the Council under section (*Withdrawal arrangements ministerial council*) or (*Withdrawal arrangements advisory panel*).
- (3) The Welsh Ministers must by regulations make provision to implement the recommendations adopted by the Council under section (*Withdrawal arrangements ministerial council*) or (*Withdrawal arrangements advisory panel*).
- (4) A Northern Ireland devolved authority must by regulations make provision to implement the recommendations adopted by the Council under section (*Withdrawal arrangements ministerial council*) or (*Withdrawal arrangements advisory panel*).”

LORD FOULKES OF CUMNOCK
LORD WALLACE OF TANKERNESS

318E Insert the following new Clause—

“Sunset provision: sections 10 and 11 and Schedule 2

Sections 10 and 11 and Schedule 2 cease to have effect after the period of five years beginning with exit day.”

Schedule 3

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF
LORD WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

319 Page 28, line 22, leave out paragraphs 1 and 2 and insert—

“Scotland Act 1998

- 1 In section 57(2) of the Scotland Act 1998 (no power for members of the Scottish Government to make subordinate legislation, or otherwise act incompatibly with EU law or Convention rights) leave out “or with EU law”.

Government of Wales Act 2006

- 2 In the Government of Wales Act 2006, omit section 80 (EU law).”

LORD CALLANAN

319A 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—

Schedule 3 - continued

- (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) In addition—
- (a) a Minister of the Crown must (unless the regulations only relate to a revocation of a specification) consult the Scottish Ministers before laying a draft of a statutory instrument containing regulations under subsection (4) before either House of Parliament, and
 - (b) see paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4)).”

LORD BLENCATHRA

320 Page 28, leave out lines 36 and 37

LORD CALLANAN

320A 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) In addition—
- (a) a Minister of the Crown must (unless the regulations only relate to a revocation of a specification) consult the Welsh Ministers before laying a draft of a statutory instrument containing regulations under subsection (8) before either House of Parliament, and
 - (b) see section 157ZA (duty to make explanatory statement about regulations under subsection (8)).
- (8C) 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.”

LORD THOMAS OF GRESFORD
BARONESS HUMPHREYS

As an amendment to Amendment 320A

320B In subsection (8B)(a), after “House of Parliament” insert “and the Assembly”

As an amendment to Amendment 320A

320C In subsection (8C), after “House of Parliament” insert “and the Assembly”

LORD BLENCATHRA

321 Page 29, leave out lines 13 to 18

Schedule 3 - continued

322 [Withdrawn]

LORD CALLANAN

322A Page 29, line 29, leave out from “law” to end of line 44 and insert “and the modification is of a description specified in regulations made by a Minister of the Crown.

- (4) But subsection (3) does not apply –
 - (a) so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or
 - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (5) In addition –
 - (a) a Minister of the Crown must (unless the regulations only relate to a revocation of a specification) consult the relevant Northern Ireland department before laying a draft of a statutory instrument containing regulations under subsection (3) before either House of Parliament, and
 - (b) see section 96A (duty to make explanatory statement about regulations under subsection (3)).
- (6) In subsection (5)(a) “relevant Northern Ireland department” means such Northern Ireland department as the Minister concerned considers appropriate.
- (7) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister making them considers appropriate.””

LORD BLENCATHRA

323 Page 29, leave out lines 36 to 44

LORD CALLANAN

323A 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 –

Schedule 3 - continued

- (i) agreed between Her Majesty's Government and any of the appropriate authorities, and
 - (ii) relating to implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,
- have been taken into account during the reporting period,
- (c) specifies any relevant regulations, or regulations under section 11(4B), which have been made in the reporting period,
 - (d) in relation to any retained EU law restriction which has effect at the end of the reporting period, sets out the Minister's assessment of the progress which still needs to be made before it can be removed,
 - (e) in relation to any relevant power that has not been repealed before the end of the reporting period, sets out the Minister's assessment of the progress which still needs to be made before it can be repealed, and
 - (f) contains any other information relating to any relevant powers or retained EU law restrictions, or the arrangements which are to replace them, that the Minister considers appropriate.
- (2) The first reporting period is the period of three months beginning with the day on which this Act is passed.
 - (3) Each successive period of three months after the first reporting period is a reporting period.
 - (4) 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.”

LORD HOPE OF CRAIGHEAD
 BARONESS FINLAY OF LLANDAFF
 LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD

324 Page 30, line 29, leave out paragraph (b)

325 Page 31, line 26, leave out from “(d)” to end of line 27 and insert “omit “or with EU law””

Schedule 3 - continued

BARONESS FINLAY OF LLANDAFF

326 Page 31, line 32, leave out paragraph 21

LORD CALLANAN

326A Page 31, line 34, leave out from “section” to end of line 35 and insert “30 insert –

“Section 30A |Type C”.”

326B Page 32, leave out line 2 and insert –

““Section 57(4) |Type C”.”

326C 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 must make a statement explaining –

(a) the effect of the instrument, and

(b) any representations made by the Scottish Ministers in response to any consultation under section 30A(3)(a) or (as the case may be) 57(6)(a) in relation to the instrument.

(3) If the Minister fails to make a statement required by sub-paragraph (2) before the draft is laid, a Minister of the Crown must make a statement explaining why the 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) 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.

(6) 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.””

Schedule 3 - continued

LORD HOPE OF CRAIGHEAD
 BARONESS FINLAY OF LLANDAFF
 LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD

327 Page 32, line 20, leave out from “subsection” to end of line 21 and insert “(4), omit paragraph (d)”

LORD HOPE OF CRAIGHEAD

328 Page 32, line 30, leave out paragraph 30

BARONESS FINLAY OF LLANDAFF

329 Page 32, line 31, leave out “before “EU” insert “Retained”” and insert “for “EU law, human” substitute “Human””

LORD HOPE OF CRAIGHEAD
 BARONESS FINLAY OF LLANDAFF
 LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD

330 Page 32, line 32, leave out paragraph 31

LORD CALLANAN

330A Page 33, line 7, leave out sub-paragraph (7)

330B 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 must make a statement explaining –
 - (a) the effect of the instrument, and
 - (b) any representations made by the Welsh Ministers in response to any consultation under section 80(8B)(a) or (as the case may be) 109A(3)(a) in relation to the instrument.
- (3) If the Minister fails to make a statement required by subsection (2) before the draft is laid, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
- (4) A statement under subsection (2) or (3) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (5) 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.

Schedule 3 - continued

- (6) 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.””

LORD THOMAS OF GRESFORD
BARONESS HUMPHREYS

As an amendment to Amendment 330B

330C In paragraph 36A, in inserted subsection (1), after “House of Parliament” insert “and the Assembly”

331 [*Withdrawn*]

332 [*Withdrawn*]

LORD CALLANAN

332A Page 34, line 34, at end insert –

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

“(4A) Regulations under section 6A or 24(3) –

(a) shall be made by statutory instrument, and

(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 must make a statement explaining –
 - (a) the effect of the instrument, and
 - (b) any representations made by the relevant Northern Ireland department in response to any consultation under section 6A(3)(a) or (as the case may be) 24(5)(a) in relation to the instrument.
- (3) If the Minister fails to make a statement required by subsection (2) before the draft is laid, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
- (4) A statement under subsection (2) or (3) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (5) 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.
- (6) This section does not apply to a draft of an instrument which only contains regulations under section 6A or 24(3) which only relate to a revocation of a specification.””

Clause 14

LORD GOLDSMITH
 BARONESS LUDFORD
 LORD KERSLAKE
 LORD BOWNESS

333 Page 9, leave out lines 25 to 27

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

334 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 ADONIS

334A Page 10, line 40, leave out from “means” to end of line 41 and insert “the time and date specified by an Act of Parliament enacted for the purposes of section 9(1) of this Act;”

LORD WIGLEY

335 Page 10, line 40, leave out “29 March 2019 at 11.00 p.m.” and insert “the day concluding any implementation period or transition period agreed between the UK and the EU”

BARONESS SHERLOCK
 BARONESS HAMWEE
 BARONESS GREENGROSS
 BARONESS TYLER OF ENFIELD

336 Page 10, line 41, at end insert –

““family law” means any area included in, or legal proceedings relating to, the provisions of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, and any associated instruments incorporated into domestic law by this Act;”

LORD JAY OF EWELME
 BARONESS HAYTER OF KENTISH TOWN
 BARONESS LUDFORD
 BARONESS WHEATCROFT

337 Page 10, line 41, at end insert –

““final terms of withdrawal” means the same as “withdrawal agreement”;”

Clause 14 - continued

LORD STEVENSON OF BALMACARA
LORD WARNER
LORD CLEMENT-JONES

- 338 Page 10, line 41, at end insert –
““General Data Protection Regulation” means Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;”

LORD JUDGE
BARONESS HAYTER OF KENTISH TOWN
LORD MCNALLY
VISCOUNT HAILSHAM

- 339 Page 11, leave out lines 8 to 12

VISCOUNT HAILSHAM

- 340 Page 11, line 10, leave out from “sentenced” to end of line 12 and insert “to a term of imprisonment”

LORD JAY OF EWELME
BARONESS HAYTER OF KENTISH TOWN
BARONESS LUDFORD
BARONESS WHEATCROFT

- 341 Page 11, line 37, at end insert “, or the absence of an agreement”

LORD WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

- 342 Page 11, line 37, at end insert –

“() For the purposes of this section, an Act of the Scottish Parliament is passed or made on the date on which it receives Royal Assent.”

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

- 343 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.”

Clause 14 - continued

VISCOUNT HAILSHAM

- 344 Page 11, line 40, at end insert “or at such other time or date as may be determined by resolution under section (*Approval by Parliament of changes to exit day*).”

BARONESS WHEATCROFT
LORD KENNEDY OF SOUTHWARK

- 345 Page 11, line 44, at end insert “or if the House of Commons resolves to instruct the Government to make a request to the European Council to extend the period set out in Article 50(3)”

LORD ADONIS

- 345A Page 11, line 46, leave out from “subsection (1)” to “and” in line 48

After Clause 14

VISCOUNT HAILSHAM

- 346 Insert the following new Clause –

“Approval by Parliament of changes to exit day

- (1) No regulations may be made for the purpose in section 14(4)(a) unless those regulations give effect to a resolution of each House of Parliament or (as the case may be) a resolution of the House of Commons in accordance with the provisions of this section.
- (2) A motion for a resolution for the purposes of this section may be made in the House of Commons only if –
 - (a) the motion for the resolution is tabled by a Member of the House of Commons who is not a Minister of the Crown, and
 - (b) at least 150 Members of the House of Commons are signatories of the motion for resolution.
- (3) In the event that a motion for resolution conforming with the requirements of subsection (2) is tabled in the House of Commons, a motion for resolution must be tabled in the same terms by a Minister of the Crown in the House of Lords.
- (4) No motion for resolution may be made for the purposes of this section after 11.00 p.m. on 29 March 2019.
- (5) If a resolution is agreed to by the House of Lords in the same terms as a resolution in the House of Commons arising from a motion made in accordance with subsection (2), a Minister of the Crown must make regulations under section 14(4) to give effect to those resolutions.
- (6) In any case where no resolution is agreed to by the House of Lords in the same terms as a resolution in the House of Commons arising from a motion made in accordance with subsection (2) within the period of 10 sitting days of the resolution in the House of Commons, a Minister of the Crown must make regulations under section 14(4) to give effect to the resolution of the House of Commons, unless the House of Commons by further resolution directs otherwise within a period of 7 sitting days in that House.”

Clause 15

LORD GOLDSMITH
 BARONESS LUDFORD
 LORD KERSLAKE
 LORD BOWNESS

347 Page 12, leave out line 28

Clause 12

LORD ADONIS

Lord Adonis gives notice of his intention to oppose the Question that Clause 12 stand part of the Bill.

Schedule 4

LORD LISVANE
 LORD JUDGE
 LORD TYLER

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

LORD LISVANE
 LORD JUDGE
 LORD PANNICK
 LORD TYLER

349 Page 35, line 28, at end insert –

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

BARONESS HAYTER OF KENTISH TOWN

350 Page 37, line 16, at end insert –

“Scrutiny of powers

Regulations under this Part, including those made in tertiary legislation, may not be made unless a draft has been laid before, and approved by a resolution of, both Houses of Parliament.”

351 Page 38, line 21, at end insert –

“Scrutiny of powers

Regulations under this Part, including those made by tertiary legislation, may not be made unless a draft has been laid before, and approved by a resolution of, both Houses of Parliament.”

VISCOUNT HAILSHAM

352 Page 38, line 21, at end insert –

“ In exercising the powers under this Part, the appropriate authority must, before making any regulations –
 (a) consult the relevant stakeholders; and
 (b) take steps to ensure that the fees or charges prescribed in the regulations are reasonable, having regard to –

Schedule 4 - continued

- (i) the cost of performing the function to which those fees or charges relate;
- (ii) the nature of the function to be exercised;
- (iii) the predicted impact on the economy of those fees and charges; and
- (iv) the predicted financial impact on those required to pay them.”

BARONESS HAYTER OF KENTISH TOWN
 BARONESS KRAMER
 LORD HIGGINS
 LORD O'DONNELL

The above-named Lords give notice of their intention to oppose the Question that Schedule 4 be the Fourth Schedule to the Bill.

After Clause 13

LORD STEPHEN
 BARONESS JOLLY
 LORD WARNER
 LORD WIGLEY

353

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.”

Schedule 5

BARONESS BOWLES OF BERKHAMSTED

- 354** Page 38, line 35, at end insert –
“() an EU directive;”

LORD LISVANE
LORD PANNICK
LORD JUDGE
LORD TYLER

- 355** Page 39, line 18, leave out sub-paragraph (3) and insert –
“(3) Any direction given under this paragraph must be contained in regulations.”

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Schedule 5 be the Fifth Schedule to the Bill.

Clause 19

LORD CALLANAN

- 355ZA** Page 15, line 12, at end insert –
“() section 11(4A) (including Part 1A of Schedule 3),”

- 355ZB** Page 15, line 15, at end insert –
“() paragraph 30A of Schedule 8 (and section 17(6) so far as relating to that paragraph),”

LORD WIGLEY

- 355A** Page 15, line 18, at end insert “, subject to subsection (2A)”

- 355B** Page 15, line 18, at end insert “, subject to subsection (2AA)”

LORD CALLANAN

- 355C** 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

Clause 19 - *continued*

(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

LORD ROBERTS OF LLANDUDNO

356 Page 15, line 18, at end insert –

- “() None of the sections of this Act 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.”

LORD FOULKES OF CUMNOCK

357 Page 15, line 19, leave out subsection (2) and insert –

- “(2) The remaining provisions of this Act come into force following a referendum on whether the United Kingdom should approve the United Kingdom and Gibraltar exit package proposed by HM Government at conclusion of the negotiations triggered by Article 50(2) for withdrawal from the European Union or remain a member of the EU.

Clause 19 - continued

- (2A) The Secretary of State must, by regulations, appoint the day on which the referendum is to be held.
- (2B) The question that is to appear on the ballot papers is—“Do you support the Government’s proposed new agreement between the United Kingdom and Gibraltar and the European Union or Should the United Kingdom remain a member of the European Union?”
- (2C) The Secretary of State may make regulations by statutory instrument on the conduct of the referendum.”

LORD WIGLEY

357ZA Page 15, line 19, at beginning insert “Subject to subsection (2AA),”

LORD CALLANAN

357ZB 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 WIGLEY

357A Page 15, line 20, after “appoint” insert “, subject to subsection (2A)”

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

358 Page 15, line 21, at end insert –

“() If the United Kingdom agrees transitional arrangements with the European Union, 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 those transitional arrangements.”

LORD WIGLEY

358A Page 15, line 21, at end insert –

“(2A) Sections 1 to 18 do not come into force until the Secretary of State has laid a report before –

(a) Parliament, and

(b) the National Assembly for Wales,

outlining whether, and if so how, the money provided to Wales through EU funding will be replicated after exit day.”

LORD WIGLEY
THE EARL OF CLANCARTY

358B Page 15, line 21, at end insert –

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

Schedule 8

LORD PANNICK
LORD NORTON OF LOUTH
LORD BEITH
BARONESS TAYLOR OF BOLTON

358C Page 55, line 33, leave out sub-paragraphs (1) and (2)

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF
LORD WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

359 Page 56, line 4, leave out from “as” to “section” in line 5

360 [*Withdrawn*]

LORD PANNICK
LORD NORTON OF LOUTH
LORD BEITH
BARONESS TAYLOR OF BOLTON

360A Page 56, line 26, leave out paragraph 5

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF
LORD WALLACE OF TANKERNESS
LORD THOMAS OF GRESFORD

361 Page 56, line 30, leave out from “as” to second “section” in line 31

362 [*Withdrawn*]

363 Page 60, line 34, leave out paragraphs (a) and (b), and insert—
“(a) in paragraph (a), omit sub-paragraph (ii), and
(b) in paragraph (b), omit “or with EU law”.”

LORD CALLANAN

363A Page 60, line 38, leave out “29(4A)” and insert “30A(1)”

LORD BASSAM OF BRIGHTON
LORD PANNICK

364 Page 61, line 2, leave out paragraph 19

LORD LISVANE
LORD JUDGE
LORD PANNICK
BARONESS HAYTER OF KENTISH TOWN

365 Page 64, line 33, leave out from first “time” to end of line 34

Schedule 8 - continued

LORD HOPE OF CRAIGHEAD
 BARONESS FINLAY OF LLANDAFF
 LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD

366 Page 65, line 7, leave out paragraphs (b) and (c)

367 Page 65, line 20, leave out paragraphs (b) and (c)

368 [*Withdrawn*]

BARONESS FINLAY OF LLANDAFF

369 Page 65, line 44, leave out paragraphs (b) and (c)

LORD HOPE OF CRAIGHEAD
 BARONESS FINLAY OF LLANDAFF
 LORD WALLACE OF TANKERNESS
 LORD THOMAS OF GRESFORD

370 Page 66, line 8, leave out paragraphs (b) and (c)

371 [*Withdrawn*]

LORD CALLANAN

371A Page 66, line 43, at end insert—

“30A Consultation undertaken by a Minister of the Crown before the day on which this Act is passed is as effective for the purposes of—

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

as consultation undertaken on or after that day.”

Schedule 9

LORD ADONIS
 BARONESS ALTMANN

372 Page 67, leave out line 38

European Union (Withdrawal) Bill

TENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

22 March 2018
