

# European Union (Withdrawal) Bill

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## MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS AND AMENDMENTS

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*[The page and line references are to HL Bill 79, the bill as first printed for the Lords.]*

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### Clause 1

#### LORDS AMENDMENTS 1 AND 2

**Lord Callanan to move, That this House do not insist on its Amendments 1 and 2 and do agree with the Commons in their Amendments 1A and 1B in lieu.**

#### After Clause 3

#### LORDS AMENDMENT 3

**Lord Callanan to move, That this House do not insist on its Amendment 3 and do agree with the Commons in their Amendments 3A and 3B in lieu.**

**Lord Krebs to move, as an amendment to the motion That this House do not insist on its Amendment 3 and do agree with the Commons in their Amendments 3A and 3B in lieu, at end insert “and do propose Amendments 3C to 3K as amendments to Amendment 3A—**

- 3C** Line 8, leave out “making and development of policies” and insert “exercise of relevant functions”
- 3D** Line 9, after “Crown” insert “and arms’ length bodies”
- 3E** Line 10, leave out “have regard”
- 3F** Line 11, leave out “to” and insert “act in accordance with”
- 3G** Line 13, leave out “a” and insert “an independent”
- 3H** Line 15, after “proportionate” insert “and appropriate”
- 3J** Line 22, after “must (” insert “as a minimum and”

**3K** Line 34, at end insert—

“(3) The Secretary of State must take steps designed to ensure that the United Kingdom’s withdrawal from the EU does not result in the removal or diminution of any rights, powers, liabilities, obligations, restrictions, remedies and procedures that contribute to the protection and improvement of the environment.””

#### LORDS AMENDMENT 4

**Lord Callanan to move, That this House do not insist on its Amendment 4 to which the Commons have disagreed for their Reason 4A, but do propose Amendment 4B as an amendment to the Bill, and Amendments 4C to 4E as amendments to its Amendments 9, 161 and 162, in lieu—**

**4B** Page 56, line 32, at end insert—

*“Affirmative procedure for instruments which amend or revoke subordinate legislation made under section 2(2) of the ECA (including subordinate legislation implementing EU directives)”*

5CA(1) A statutory instrument which—

- (a) is to be made on or after exit day by a Minister of the Crown under a power conferred before the beginning of the Session in which this Act is passed,
- (b) is not to be made jointly with any person who is not a Minister of the Crown,
- (c) amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, and
- (d) would otherwise be subject to a lower procedure before each House of Parliament and no procedure before any other legislature,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(2) Sub-paragraph (1) has effect instead of any other provision which would otherwise apply in relation to the procedure for such an instrument before each House of Parliament but does not affect any other requirements which apply in relation to making, confirming or approving the instrument.

(3) Any provision which—

- (a) may be made under the power mentioned in sub-paragraph (1)(a),
- (b) is not provision which falls within sub-paragraph (1)(c), and
- (c) is subject to a lower procedure than the procedure provided for by sub-paragraph (1),

may be included in an instrument to which sub-paragraph (1) applies (and is accordingly subject to the procedure provided for by that sub-paragraph instead of the lower procedure).

(4) If a draft of a statutory instrument which—

- (a) is to be made on or after exit day by a Minister of the Crown under a power conferred before the beginning of the Session in which this Act is passed,

- (b) is not to be made jointly with any person who is not a Minister of the Crown,
  - (c) amends or revokes any provision, made otherwise than under section 2(2) of the European Communities Act 1972 (whether or not by way of amendment), of subordinate legislation made under that section, and
  - (d) would otherwise be subject to a lower procedure before each House of Parliament and no procedure before any other legislature,
- is laid before, and approved by a resolution of, each House of Parliament, then the instrument is not subject to the lower procedure.
- (5) This paragraph applies to an instrument which is subject to a procedure before the House of Commons only as it applies to an instrument which is subject to a procedure before each House of Parliament but as if the references to each House of Parliament were references to the House of Commons only.
  - (6) For the purposes of this paragraph, the order of procedures is as follows (the highest first) –
    - (a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
    - (b) a procedure which requires the approval of the instrument in draft before it is made,
    - (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
    - (d) a procedure which provides for the annulment of the instrument after it is made,
    - (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
    - (f) no procedure.
  - (7) For the purposes of this paragraph a power is conferred whether or not it is in force.
  - (8) References in this paragraph, other than in sub-paragraph (4), to subordinate legislation made under section 2(2) of the European Communities Act 1972 –
    - (a) do not include references to any provision of such legislation which is made (whether or not by way of amendment) otherwise than under section 2(2) of that Act, and
    - (b) do include references to subordinate legislation made otherwise than under section 2(2) of that Act so far as that legislation is amended by provision made under that section (but do not include references to any primary legislation so far as so amended).
  - (9) This paragraph is subject to any other provision made by or under this Act or any other enactment.

*Enhanced scrutiny procedure for instruments which amend or revoke subordinate legislation under section 2(2) of the ECA (including subordinate legislation implementing EU directives)*

- 5CB (1) This paragraph applies where, on or after exit day –
- (a) a statutory instrument which –
    - (i) amends or revokes subordinate legislation made under section 2(2) of the European Communities Act 1972, and
    - (ii) is made under a power conferred before the beginning of the Session in which this Act is passed, or
  - (b) a draft of such an instrument,
- is to be laid before each House of Parliament and subject to no procedure before any other legislature.
- (2) The relevant authority must publish, in such manner as the relevant authority considers appropriate, a draft of the instrument at least 28 days before the instrument or draft is laid.
  - (3) The relevant authority must make a scrutiny statement before the instrument or draft is laid.
  - (4) A scrutiny statement is a statement –
    - (a) setting out the steps which the relevant authority has taken to make the draft instrument published in accordance with sub-paragraph (2) available to each House of Parliament,
    - (b) containing information about the relevant authority's response to –
      - (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and
      - (ii) any other representations made to the relevant authority about the published draft instrument, and
    - (c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
  - (5) A scrutiny statement must be in writing and must be published in such manner as the relevant authority considers appropriate.
  - (6) Sub-paragraphs (2) to (5) do not apply if the relevant authority –
    - (a) makes a statement in writing to the effect that the relevant authority is of the opinion that, by reason of urgency, sub-paragraphs (2) to (5) should not apply, and
    - (b) publishes the statement in such manner as the relevant authority considers appropriate.
  - (7) This paragraph does not apply in relation to any laying before each House of Parliament of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses.
  - (8) This paragraph applies to an instrument which is subject to a procedure before the House of Commons only as it applies to an instrument which is subject to a procedure before each House of Parliament but as if references to each or either House of Parliament, or both Houses, were references to the House of Commons only.

- (9) For the purposes of this paragraph –
- (a) a power is conferred whether or not it is in force,
  - (b) the draft instrument published under sub-paragraph (2) need not be identical to the final version of the instrument or draft instrument as laid,
  - (c) 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, and
  - (d) in calculating the period of 28 days, no account is to be taken of any time during which –
    - (i) Parliament is dissolved or prorogued, or
    - (ii) either House of Parliament is adjourned for more than four days.
- (10) Sub-paragraph (8) of paragraph 5CA applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.
- (11) 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 to be made by a Minister of the Crown, the person who is to make the instrument, and
  - (c) in any other case, the Minister of the Crown who is to make the instrument.
- (12) This paragraph is subject to any other provision made by or under this Act or any other enactment.”

#### **Amendment to Lords Amendment 9**

- 4C** Line 58, at end insert –
- “(ca) paragraphs 5CA to 5E (affirmative and enhanced scrutiny procedure for, and information about, instruments which amend or revoke subordinate legislation under section 2(2) of the European Communities Act 1972 including subordinate legislation implementing EU directives),”

#### **Amendment to Lords Amendment 161**

- 4D** Line 39, at end insert –
- “(8A) Sub-paragraph (8) of paragraph 5CA applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.”

#### **Amendment to Lords Amendment 162**

- 4E** Line 25, at end insert –
- “(6A) Sub-paragraph (8) of paragraph 5CA applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.”

**Baroness Hayter of Kentish Town to move, as an amendment to the motion That this House do not insist on its Amendment 4 to which the Commons have disagreed for their Reason 4A, but do propose Amendment 4B as an amendment to the Bill, and Amendments 4C to 4E as amendments to its Amendments 9, 161 and 162, in lieu, leave out from second “Amendment” to end and insert “4F in lieu –**

#### **After Clause 3**

**4F** Insert the following new Clause –

**“Enhanced protection for certain areas of EU law**

- (1) Any retained EU law which relates to –
  - (a) employment entitlements, rights and protection,
  - (b) rights and protections relating to consumers, or
  - (c) equality entitlements, rights and protections
 may not be amended, repealed or revoked save by primary legislation, or by subordinate legislation made under any Act of Parliament which meets the requirements in subsection (2).
- (2) Subordinate legislation which amends, repeals or revokes retained EU law in the areas set out in subsection (1) must be subject to an enhanced scrutiny procedure, to be established by regulations made by the Secretary of State and which includes –
  - (a) a requirement that no regulation may be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) a period of consultation with such stakeholders as a Minister feels appropriate.””

#### **Clause 5**

##### LORDS AMENDMENT 5

**Lord Callanan to move, That this House do not insist on its Amendment 5, to which the Commons have disagreed for their Reason 5A.**

**Lord Pannick to move, as an amendment to the motion That this House do not insist on its Amendment 5, to which the Commons have disagreed for their Reason 5A, at end insert “and do propose Amendment 5B in lieu –**

**5B** Page 3, line 20, leave out subsection (4) and insert –

- “( ) The Charter of Fundamental Rights (apart from the Preamble and Chapter V) is part of domestic law under this Act on or after exit day save that –
- (a) there is no right of action in domestic law on or after exit day based on a failure to comply with any provision of the Charter;
  - (b) no court, tribunal or public authority may, on or after exit day –
    - (i) disapply or quash any enactment or other rule of law, or
    - (ii) quash any conduct or otherwise decide that it is unlawful, because it is incompatible with any provision of the Charter.””

**Clause 7**

## LORDS AMENDMENT 10

**Lord Callanan to move, That this House do not insist on its Amendment 10, to which the Commons have disagreed for their Reason 10A.**

**Before Clause 9**

## LORDS AMENDMENT 19

**Lord Callanan to move, That this House do not insist on its Amendment 19, and do agree with the Commons in their Amendments 19A and 19B in lieu and do propose Amendments 19C to 19L as amendments to Commons Amendment 19A –**

**19C** Line 17, after “five” insert “Lords”

**19D** Line 18, after “first” insert “Lords”

**19E** Line 30, leave out “28” and insert “21”

**19F** Line 37, at end insert –

“(5A) A Minister of the Crown must make arrangements for –

- (a) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in subsection (4), to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the statement is made, and
- (b) a motion for the House of Lords to take note of the statement to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement is made.

(5B) Subsection (5C) applies if the Prime Minister makes a statement before the end of 21 January 2019 that no agreement in principle can be reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of –

- (a) the arrangements for the United Kingdom’s withdrawal from the EU, and
- (b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.

(5C) A Minister of the Crown must, within the period of 14 days beginning with the day on which the statement mentioned in subsection (5B) is made –

- (a) make a statement setting out how Her Majesty’s Government proposes to proceed, and
- (b) make arrangements for –
  - (i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the statement mentioned in paragraph (a) is made, and

- (ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement mentioned in paragraph (a) is made.
- (5D) A statement under subsection (5B) or (5C)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (5E) Subsection (5F) applies if, at the end of 21 January 2019, there is no agreement in principle in negotiations under Article 50(2) of the Treaty on European Union on the substance of –
  - (a) the arrangements for the United Kingdom’s withdrawal from the EU, and
  - (b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.
- (5F) A Minister of the Crown must, within the period of five days beginning with the end of 21 January 2019 –
  - (a) make a statement setting out how Her Majesty’s Government proposes to proceed, and
  - (b) make arrangements for –
    - (i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of five Commons sitting days beginning with the end of 21 January 2019, and
    - (ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of five Lords sitting days beginning with the end of 21 January 2019.
- (5G) A statement under subsection (5F)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (5H) For the purposes of this section –
  - (a) a statement made under subsection (4), (5C)(a) or (5F)(a) may be combined with a statement made under another of those provisions,
  - (b) a motion falling within subsection (5A)(a), (5C)(b)(i) or (5F)(b)(i) may be combined into a single motion with another motion falling within another of those provisions, and
  - (c) a motion falling within subsection (5A)(b), (5C)(b)(ii) or (5F)(b)(ii) may be combined into a single motion with another motion falling within another of those provisions.”

**19G** Line 40, at end insert –

- “(6A) In subsection (1) “framework for the future relationship” means the document or documents identified, by the statement that political agreement has been reached, as reflecting the agreement in principle on the substance of the framework for the future relationship between the EU and the United Kingdom after withdrawal.”



- 19H** Line 41, at end insert –  
 ““Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);”
- 19J** Line 42, leave out from beginning of line 42 to end of line 46
- 19K** Line 46, at end insert –  
 ““Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);”
- 19L** Line 54, leave out from beginning of line 54 to end of line 56  
**Viscount Hailsham to move, as an amendment to the motion That this House do not insist on its Amendment 19, and do agree with the Commons in their Amendments 19A and 19B in lieu and do propose Amendments 19C to 19L as amendments to Commons Amendment 19A, leave out “Amendments 19C to 19L as amendments” and insert “Amendment 19M as an amendment”.**
- 19M** Line 37, at end insert –  
 “(5A) Within seven days of a statement under subsection (4) being laid, a Minister of the Crown must move a motion in the House of Commons to seek approval of the Government’s approach.  
 (5B) In the event of no political agreement having been reached on a withdrawal agreement by the end of 30 November 2018, a Minister of the Crown must move a motion in the House of Commons setting out how the Government intends to proceed and seeking the approval of the House for that course of action.  
 (5C) If no political agreement has been reached on a withdrawal agreement by the end of 15 February 2019, the Government must bring the matter before both Houses of Parliament within five days and must follow any direction in relation to the negotiations under Article 50(2) of the Treaty of European Union which has been –  
 (a) approved by a resolution of the House of Commons, and  
 (b) the subject of a motion which has either been debated in the House of Lords, or upon which the House of Lords has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the House of Commons passes the resolution mentioned in paragraph (a).”

### Clause 9

#### LORDS AMENDMENT 20

**Lord Callanan to move, That this House do not insist on its Amendment 20, to which the Commons have disagreed for their Reason 20A.**

#### After Clause 9

#### LORDS AMENDMENT 24

**Lord Callanan to move, That this House do not insist on its Amendment 24, and**

do agree with the Commons in their Amendments 24A and 24B in lieu and do propose Amendment 24C as an amendment to Commons Amendment 24A –

24C Line 8, leave out “is aged 18 or over and”.

#### Before Clause 10

##### LORDS AMENDMENT 25

Lord Callanan to move, That this House do agree with the Commons in their Amendments 25A to 25E.

#### Clause 14

##### LORDS AMENDMENTS 37, 39 AND 125

Lord Callanan to move, That this House do not insist on its Amendments 37, 39 and 125 to which the Commons have disagreed for their Reason 37A.

#### Clause 17

##### LORDS AMENDMENT 43

Lord Callanan to move, That this House do not insist on its Amendment 43, to which the Commons have disagreed for their Reason 43A.

##### LORDS AMENDMENT 45

Lord Callanan to move, That this House do not insist on its Amendment 45, to which the Commons have disagreed for their Reason 45A.

#### Clause 19

##### LORDS AMENDMENT 51

Lord Callanan to move, That this House do not insist on its Amendment 51, to which the Commons have disagreed for their Reason 51A.

#### Schedule 1

##### LORDS AMENDMENT 52

Lord Callanan to move, That this House do not insist on its Amendment 52, to which the Commons have disagreed for their Reason 52A.

Lord Beith to move, as an amendment to the motion That this House do not insist on its Amendment 52, to which the Commons have disagreed for their Reason 52A, at end insert “and do propose Amendment 52B in lieu –

52B Page 16, line 12, at end insert –

“or if regulations under this paragraph have not been made.””

##### LORDS AMENDMENT 53

Lord Callanan to move, That this House do not insist on its Amendment 53 and

**do agree with the Commons in their Amendment 53A in lieu.**

### Schedule 7

#### LORDS AMENDMENTS 110 AND 128

**Lord Callanan to move, That this House do not insist on its Amendments 110 and 128 to which the Commons have disagreed for their Reason 110A, but do propose Amendments 110B to 110J in lieu –**

- 110B** Page 45, line 4, leave out “the House of Commons” and insert “each House of Parliament”
- 110C** 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) Sub-paragraph (4C) applies if –
    - (a) a committee makes a recommendation as mentioned in sub-paragraph (4) within the relevant period,
    - (b) the recommendation is that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made, and
    - (c) the Minister who is to make the instrument is nevertheless of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (4C) Before the instrument is made, the Minister must make a statement explaining why the Minister does not agree with the recommendation of the committee.
  - (4D) If the Minister fails to make a statement required by sub-paragraph (4C) before the instrument is made, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
  - (4E) A statement under sub-paragraph (4C) or (4D) must be made in writing and be published in such manner as the Minister making it considers appropriate.
  - (4F) In this paragraph “the relevant period” means the period –
    - (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft instrument was laid before each House as mentioned in sub-paragraph (3)(b)(i), and
    - (b) ending with whichever of the following is the later –
      - (i) the end of the period of 10 Commons sitting days beginning with that first day, and
      - (ii) the end of the period of 10 Lords sitting days beginning with that first day.
  - (4G) For the purposes of sub-paragraph (4F) –
    - (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 (4F) 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.”

- 110D** Page 49, line 5, leave out “6(3) or”
- 110E** Page 49, line 5, after “7(3)” insert “or 11”
- 110F** Page 49, line 16, leave out “the House of Commons” and insert “each House of Parliament”
- 110G** 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) Sub-paragraph (4C) applies if—
- (a) a committee makes a recommendation as mentioned in sub-paragraph (4) within the relevant period,
  - (b) the recommendation is that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made, and
  - (c) the Minister who is to make the instrument is nevertheless of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4C) Before the instrument is made, the Minister must make a statement explaining why the Minister does not agree with the recommendation of the committee.
- (4D) If the Minister fails to make a statement required by sub-paragraph (4C) before the instrument is made, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
- (4E) A statement under sub-paragraph (4C) or (4D) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4F) 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.

- (4G) For the purposes of sub-paragraph (4F) –
- (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 (4F) 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.”

**110H** Page 49, line 30, leave out “6(3) or”

**110J** Page 49, line 30, after “7(3)” insert “or 11”

# European Union (Withdrawal) Bill

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MOTIONS TO BE MOVED  
ON CONSIDERATION OF COMMONS REASONS AND AMENDMENTS

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