3rd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 10 Section 1
Sections 11 to 18 Schedule 1
Sections 19 to 21 Schedule 2
Sections 22 to 26 Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 6

Liam Kerr
20 Leave out section 6

After section 6

Liam Kerr
55 After section 6, insert—

<Prosecution of offences under section 3 or 5>
No proceedings for an offence under section 3 or 5 may be instituted except by, or with the consent of, Crown Counsel.>

Section 7

Humza Yousaf
56 In section 7, page 6, line 22, leave out <or 5>

Humza Yousaf
57 In section 7, page 6, line 26, leave out <or 5(1)>

Humza Yousaf
58 In section 7, page 6, line 27, leave out <or 5(3)>

Dean Lockhart
59 In section 7, page 6, line 27, at end insert—

<(2) For the purposes of recording a conviction under subsection (1), the court must break down the characteristics into such sub-categories as must be prescribed by the Scottish Ministers by regulations.>
(3) Regulations under subsection (2) are subject to the affirmative procedure.

(4) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (2) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.>

Liam Kerr
21 Leave out section 7

Section 8

Humza Yousaf
60 In section 8, page 6, line 29, leave out <or 5>

Liam Kerr
22 Leave out section 8

Section 9

Humza Yousaf
61 In section 9, page 7, line 3, leave out <or 5>

Humza Yousaf
Supported by: Liam Kerr
8 In section 9, page 7, leave out line 6

Liam Kerr
23 Leave out section 9

Section 10

Humza Yousaf
62 In section 10, page 7, line 27, after <sections> insert <(Racially aggravated harassment) and>

Humza Yousaf
63 In section 10, page 7, line 27, leave out <and 5>

Liam Kerr
24 Leave out section 10

Humza Yousaf
64 Move section 10 to after section 15
Schedule 1

Humza Yousaf
66 In schedule 1, page 11, line 5, after <section> insert <(Racially aggravated harassment) or>

Humza Yousaf
67 In schedule 1, page 11, line 5, leave out <or 5>

Humza Yousaf
68 In schedule 1, page 12, line 2, after <section> insert <(Racially aggravated harassment) or>

Humza Yousaf
69 In schedule 1, page 12, line 2, leave out <or 5>

Humza Yousaf
70 In schedule 1, page 12, line 24, after <section> insert <(Racially aggravated harassment) or>

Humza Yousaf
71 In schedule 1, page 12, line 24, leave out <or 5>

Humza Yousaf
72 In schedule 1, page 13, line 4, after <section> insert <(Racially aggravated harassment) or>

Humza Yousaf
73 In schedule 1, page 13, line 4, leave out <or 5>

Humza Yousaf
74 In schedule 1, page 13, line 10, after <section> insert <(Racially aggravated harassment) or>

Humza Yousaf
75 In schedule 1, page 13, line 10, leave out <or 5>

Section 11

Humza Yousaf
76 In section 11, page 7, line 31, leave out <sections 3(2) and 5(2)> and insert <section 3(2)>

Liam Kerr
25 In section 11, page 8, line 1, leave out <or abusive>
In section 11, page 8, line 3, after <of> insert <, or expressions of antipathy, dislike, ridicule or insult towards>  

In section 11, page 8, line 5, at end insert <whether religious beliefs or practices generally or a particular religious belief or practice,>  

In section 11, page 8, line 5, at end insert—  

<( ) the position of not holding religious beliefs, whether religious beliefs generally or a particular religious belief,>  

Leave out section 11  

Section 12  

In section 12, page 8, line 9, leave out <sections 3(2) and 5(2)> and insert <section 3(2)>  

In section 12, page 8, line 10, leave out <or abusive>  

In section 12, page 8, line 11, leave out from <—> to end of line 13 and insert <discussion or criticism of matters relating to sexual orientation.>  

(3) In this section, “sexual orientation” means sexual orientation towards—  

(a) persons of the same sex,  

(b) persons of a different sex,  

(c) both persons of the same sex and persons of a different sex.>  

Leave out section 12  

After section 12  

After section 12, insert—  

<Freedom of expression: women’s rights>
(1) This section applies for the purposes of sections 3(2) and 5(2).

(2) Behaviour or material is not to be taken to be threatening or abusive when it is for the purpose of advocating for women’s rights.

**Section 13**

**Liam Kerr**

84 In section 13, page 8, line 17, at end insert—

<( ) “Dwelling” means any structure, or part of a structure, occupied as a person’s home or other living accommodation (whether the occupation is sole or shared with others) but does not include any part not so occupied, and for this purpose, “structure” includes a tent, caravan, vehicle, vessel or other temporary or movable structure.>

**Liam Kerr**

29 Leave out section 13

**Section 14**

**Humza Yousaf**

85 In section 14, page 8, line 26, leave out <sections 1, 3 and 5> and insert <sections 1 and 3>

**Margaret Mitchell**

86 In section 14, page 8, leave out line 27

**Humza Yousaf**

87 In section 14, page 8, line 27, leave out <age falling within a range of ages> and insert <age range>

**Dean Lockhart**

88 In section 14, page 8, line 30, leave out <(or may have)> and insert <, has had, or may have>

**Johann Lamont**

89 In section 14, page 9, line 1, at end insert—

<(5A) A reference to sex is a reference to being a woman or a man.

(5B) For the purposes of subsection (5A)—

(a) “woman” means a female of any age, and

(b) “man” means a male of any age.>

**Johann Lamont**

90 In section 14, page 9, line 4, leave out <a different> and insert <the opposite>
Johann Lamont
91 In section 14, page 9, line 5, leave out “<a different>” and insert “<the opposite>”

Section 15

Humza Yousaf
92 In section 15, page 9, line 19, leave out “<any>” and insert “<either or both>”

Johann Lamont
93 In section 15, page 9, leave out line 20

Humza Yousaf
94 In section 15, page 9, leave out line 22

Humza Yousaf
96 In section 15, page 9, line 22, at end insert—

<(  ) Regulations under this section may modify section (Publication of reports by police on recorded hate crime)(3) by making provision about the information relating to the characteristic of sex which is to be included in reports under that section.>

Johann Lamont
97 In section 15, page 9, line 23, leave out subsection (2)

Humza Yousaf
98 In section 15, page 9, line 29, at end insert—

<(  ) Before laying a draft of a Scottish statutory instrument containing regulations under this section before the Scottish Parliament, the Scottish Ministers must—

(a) lay before the Scottish Parliament a proposed draft of the instrument,

(b) have regard to any representations about the proposed draft that are made to them within the period of 40 days beginning with the day on which the proposed draft is laid and make any changes to the draft instrument that they consider appropriate.

(  ) In calculating the period of 40 days, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.>

After section 15

Humza Yousaf
99 After section 15, insert—

<Reports on recorded hate crime

Publication of reports by police on recorded hate crime>
(1) The chief constable of the Police Service must, no later than 6 months after the end of each reporting year, publish a report on records made by the Police Service during that reporting year of cases categorised by the Police Service as—

(a) offences aggravated by prejudice within the meaning of section 1, and

(b) offences under this Act.

(2) The report must include the following information in respect of each recorded offence to the extent that this information has been recorded by the Police Service—

(a) the age, sex, and ethnic or national origins of any person recorded as being a victim of the offence,

(b) the age, sex, and ethnic or national origins of any person recorded as being a perpetrator or suspected perpetrator of the offence.

(3) The report must include the following information to the extent that this information has been recorded by the Police Service—

(a) in respect of each record of an offence under section (Racially aggravated harassment) and each record of an offence under section 3(1), the particular race, colour, nationality (including citizenship), or ethnic or national origins recorded as being targeted,

(b) in respect of each record of an offence aggravated by prejudice within the meaning of section 1 and each record of an offence under section 3(2)—

(i) the particular characteristic mentioned in section 1(2) or 3(3) which is recorded as being targeted,

(ii) where the characteristic is age, the particular age or age range recorded as being targeted,

(iii) where the characteristic is disability, the particular type of disability that is recorded as being targeted, including whether it is a physical impairment or a mental impairment,

(iv) where the characteristic is race, colour, nationality (including citizenship), or ethnic or national origins, the particular race, colour, nationality (including citizenship), or ethnic or national origins recorded as being targeted,

(v) where the characteristic is religion or, in the case of a social or cultural group, perceived religious affiliation, the particular religion (including lack of religious belief) or religious affiliation recorded as being targeted,

(vi) where the characteristic is sexual orientation, whether the sexual orientation that is recorded as being targeted is sexual orientation towards persons of the same sex, towards persons of a different sex, or towards both persons of the same sex and persons of a different sex,

(vii) where the characteristic is transgender identity, whether the transgender identity that is recorded as being targeted is identity as a female-to-male transgender person, as a male-to-female transgender person, as a non-binary person, or as a person who cross-dresses.

(4) The report must not include information in respect of any recorded offence—

(a) which identifies any individual, or

(b) from which the identity of any individual may be ascertained.
(5) In this section—
“Police Service” means the Police Service of Scotland,
“reporting year” means a period of one year ending on 31 March.

Margaret Mitchell

99A As an amendment to amendment 99, leave out lines 25 and 26

Johann Lamont

99B As an amendment to amendment 99, line 39, leave out <a different> and insert <the opposite>

99C As an amendment to amendment 99, line 40, leave out <a different> and insert <the opposite>

Schedule 2

Humza Yousaf

100 In schedule 2, page 14, line 4, at end insert—

<Crime}INAL Law (Consolidation) (Scotland) Act 1995
Section 50A (racially-aggravated harassment) of the Criminal Law (Consolidation) (Scotland) Act 1995 is repealed.>

After section 19

Humza Yousaf

101 After section 19, insert—

<Crown application: powers of entry
(1) A warrant granted under section 6 is exercisable in relation to Crown land specified in column 1 of the following table only with the consent of the person specified in the corresponding entry in column 2 of the table (the “appropriate authority”).

<table>
<thead>
<tr>
<th>Crown land</th>
<th>Appropriate authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Crown Estate (that is, the property, rights and interests under the management of the Crown Estate Commissioners)</td>
<td>The Crown Estate Commissioners</td>
</tr>
<tr>
<td>Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Scottish Crown Estate</td>
<td>The person managing the land</td>
</tr>
<tr>
<td>Land an interest in which belongs to Her Majesty in right of the Crown other than</td>
<td>The office-holder in the Scottish Administration or, as the case may be, the</td>
</tr>
<tr>
<td>Land forming part of the Crown Estate or the Scottish Crown Estate</td>
<td>Government department managing the land</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Land an interest in which belongs to Her Majesty in right of Her private estates</td>
<td>The person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers</td>
</tr>
<tr>
<td>Land an interest in which belongs to an office-holder in the Scottish Administration</td>
<td>The office-holder in the Scottish Administration</td>
</tr>
<tr>
<td>Land an interest in which belongs to a Government department</td>
<td>The Government department</td>
</tr>
<tr>
<td>Land an interest in which is held in trust for Her Majesty by an office-holder in the Scottish Administration for the purposes of the Scottish Administration</td>
<td>The office-holder in the Scottish Administration</td>
</tr>
<tr>
<td>Land an interest in which is held in trust for Her Majesty for the purposes of a Government department</td>
<td>The Government department</td>
</tr>
</tbody>
</table>

(2) In subsection (1)—

(a) the reference to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862,

(b) “Government department” means a department of the Government of the United Kingdom,

(c) “Scottish Crown Estate” means the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies.

(3) It is for the Scottish Ministers to determine any question that arises as to who in accordance with subsection (1) is the appropriate authority in relation to any land, and their decision is final.

Long Title

Humza Yousaf

102 In the long title, page 1, line 2, after <prejudice;> insert <to make provision about an offence of racially aggravated harassment;>