

UK Withdrawal from the European Union (Continuity) (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 47
Schedule 2

Schedule 1
Long Title

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

Section 1

Michelle Ballantyne

4 In section 1, page 2, leave out line 27 and insert—

<() have practical application in relation to Scotland and are not otherwise redundant or substantially redundant,>

Michelle Ballantyne

5 In section 1, page 2, line 30, leave out <(including making an instrument of a legislative character or providing funding)>

Michelle Ballantyne

6 In section 1, page 2, line 35, at end insert—

<() Subsection (3)(a) does not apply to an instrument making provision of a legislative character or providing funding.>

After section 1

Angela Constance

7 After section 1, insert—

<Purpose of maintaining and advancing standards

(1) The purpose of section 1(1) is, among other things, to contribute towards maintaining and advancing standards in relation to the following matters—

- (a) environmental protection,
- (b) animal health and welfare,
- (c) plant health,
- (d) equality, non-discrimination and human rights,
- (e) social protection.

- (2) When using the power under section 1(1), the Scottish Ministers must have due regard to the purpose referred to in subsection (1).
- (3) In subsection (1)(a), “environmental protection” has the meaning given by section 40(1).>

Section 2

Michelle Ballantyne

- 8 In section 2, page 3, line 32, at end insert—
- <() make provision implementing significant new policy developments in EU law.>

Section 3

Dean Lockhart

- 45 In section 3, page 4, line 9, leave out <6> and insert <3>

Dean Lockhart

- 46 In section 3, page 4, line 15, leave out <10> and insert <6>

After section 3

Dean Lockhart

- 47* After section 3, insert—
- <Pre-laying scrutiny of regulations under section 1(1)>**
- (1) Before laying before the Scottish Parliament a Scottish statutory instrument containing regulations under section 1(1), or a draft of such an instrument, the Scottish Ministers must lay before the Parliament—
 - (a) a draft of the proposed regulations,
 - (b) a statement specifying—
 - (i) that it is the Scottish Ministers’ opinion that the provision should be made by regulations,
 - (ii) the procedure that the Scottish Ministers consider the regulations should be subject to,
 - (iii) the reasons for those opinions.
 - (2) If the committee within whose remit the Scottish statutory instrument falls considers that the instrument—
 - (a) reflects a significant change in EU law or policy,
 - (b) would constitute a significant change to Scots law, or
 - (c) would constitute a significant change in the policy of the Scottish Ministers,it may take any of the actions set out in subsection (3).
 - (3) If subsection (2) applies, the committee may agree by resolution within 28 days of the proposed regulations and statement being laid under subsection (1) that—

- (a) regulations the Scottish Ministers consider should be subject to the negative procedure should be subject to the affirmative procedure,
 - (b) the regulations should be subject to the additional requirements in section (*Regulations: additional requirements*),
 - (c) the provision should not be made by regulations.
- (4) If the committee agrees a resolution under subsection (3), the Scottish Ministers must act in accordance with that resolution when the instrument or draft is laid.
- (5) In calculating the period of 28 days for the purpose of subsection (3), no account is to be taken of any period during which the Parliament is dissolved or in recess for more than 4 days.>

Dean Lockhart

48* After section 3, insert—

<Regulations: additional requirements

- (1) Where a committee agrees a resolution under section (*Pre-laying scrutiny of regulations under section 1(1))(3)(b*), before a draft of a Scottish statutory instrument containing the regulations is laid before the Parliament, the Scottish Ministers must—
- (a) lay before the Scottish Parliament—
 - (i) a document setting out their proposals,
 - (ii) impact assessments on the likely regulatory, financial and environmental impact of the instrument,
 - (b) consult—
 - (i) such persons or organisations as appear to them to be representative of interests substantially affected by the proposals,
 - (ii) where the proposals relate to the functions of one or more persons, bodies or office-holders, those persons, bodies or office-holders, or persons appearing to them to be representative of those persons, bodies or office-holders,
 - (iii) such other persons as they consider appropriate,
 - (c) have regard to any representations made within 40 days of the documents being laid before the Parliament under paragraph (a).
- (2) In calculating the period of 40 days for the purposes of subsection (1)(c), no account is to be taken of any period during which the Parliament is dissolved or in recess for more than 4 days.>

Section 4

Michelle Ballantyne

9 In section 4, page 4, line 21, at end insert—

- <() Regulations under section 1(1) which implement significant new policy provision with no equivalent in retained EU law are subject to the additional requirements in section (*Additional scrutiny of regulations under section 1(1)*).>

Dean Lockhart

- 49 In section 4, page 4, line 36, at end insert—
<() reflects a significant change in EU law or policy.>

Dean Lockhart

- 50 In section 4, page 4, line 36, at end insert—
<() would constitute a significant change to Scots law.>

Dean Lockhart

- 51 In section 4, page 4, line 36, at end insert—
<() would constitute a significant change in the policy of the Scottish Ministers.>

After section 4

Michelle Ballantyne

- 10 After section 4, insert—
- <Additional scrutiny of regulations under section 1(1)>**
- (1) Where this section applies, the Scottish Ministers must not lay before the Scottish Parliament a Scottish statutory instrument containing regulations under section 1(1), or a draft of such an instrument, unless they have—
 - (a) consulted in accordance with subsection (2),
 - (b) had regard to any representations that are made to them within the relevant period,
 - (c) laid before the Parliament an explanatory statement setting out—
 - (i) details of the consultation undertaken,
 - (ii) a summary of any representations received as a result of the consultation,
 - (iii) the changes (if any) made to the proposals as a result of those representations.
 - (2) The Scottish Ministers must—
 - (a) lay before the Parliament a document setting out their proposals,
 - (b) make such a document publicly available in such manner as they consider appropriate,
 - (c) consult—
 - (i) such persons or organisations as appear to them to be representative of interests substantially affected by the proposals,
 - (ii) where the proposals relate to the functions of one or more persons, bodies or office-holders, those persons, bodies or office-holders, or persons appearing to them to be representative of those persons, bodies or office-holders,
 - (iii) such other persons as they consider appropriate.

- (3) In this section, the “relevant period” means the period, of no less than 40 days, which the Scottish Ministers specify when the copy of the proposals is laid before the Parliament under subsection (2)(a).
- (4) In calculating any period of 40 days, or such longer period as the Scottish Ministers may specify, for the purposes of subsection (3), no account is to be taken of any time during which the Parliament is—
 - (a) dissolved, or
 - (b) in recess for more than 4 days.>

Section 4A

Liam McArthur

- 12** In section 4A, page 5, line 3, after <on> insert <—
(a) the approach to be taken,
(b)>

Liam McArthur

- 13** In section 4A, page 5, line 3, after <account> insert <, and
(c) the process to be followed,>

Michelle Ballantyne

- 52** In section 4A, page 5, line 4, at end insert—
<() The Scottish Ministers must also publish, in such manner as they consider appropriate, a statement of their intended approach to consultation when considering whether to use the power under section 1(1).>

Liam McArthur

- 15** In section 4A, page 5, line 6, at end insert—
<(2A) Where the Scottish Ministers make a statement referred to in subsection (5C) of section 6, by virtue of paragraph (c) of that subsection, they must as soon as reasonably practicable after making the statement—
(a) review the policy statement, and
(b) either—
(i) revise the policy statement and publish the revised policy statement, or
(ii) lay before the Scottish Parliament a document explaining why, in the Scottish Ministers’ opinion, it is not necessary to revise the policy statement.
(2B) In this Part, references to a policy statement under this section include references to the policy statement as revised from time to time.>

Michelle Ballantyne

- 16** In section 4A, page 5, line 6, at end insert—

- <() Any statement or, as the case may be, revised statement under this section must be laid in draft and approved by resolution of the Scottish Parliament before the power under section 1(1) may be used.>

Michelle Ballantyne

17 In section 4A, page 5, line 6, at end insert—

- <() Any statement or, as the case may be, revised statement under this section must be laid in draft and approved by resolution of the Scottish Parliament.>

After section 4A

Liam McArthur

18 After section 4A, insert—

<Procedure for publication of policy statement

- (1) Before publishing a policy statement under section 4A, the Scottish Ministers must lay a copy of the statement before the Scottish Parliament for approval.
- (2) The Scottish Ministers must not publish the policy statement before the end of the 28-day period mentioned in subsection (5).
- (3) Before laying a copy of the policy statement before the Scottish Parliament under subsection (1), the Scottish Ministers must—
 - (a) lay a draft of the statement before the Parliament, and
 - (b) in preparing the copy of the policy statement that is to be laid before the Parliament under subsection (1), have regard to any representations about the draft statement that are made to them before the end of the period of 28 days beginning with the day on which the draft statement is laid before the Parliament under paragraph (a).
- (4) When laying a copy of the policy statement before the Scottish Parliament under subsection (1), the Scottish Ministers must at the same time lay before the Parliament a document describing how they have had regard to any representations made about the draft statement in accordance with subsection (3)(b) in preparing the copy of the statement.
- (5) If, within 28 days of a copy of the policy statement having been laid before the Scottish Parliament under subsection (1), the Parliament resolves that the statement should not be approved, the Scottish Ministers must not publish the statement but instead—
 - (a) review and revise the policy statement, having regard to any views expressed by the Parliament in relation to the statement, and
 - (b) lay a copy of the policy statement as revised before the Parliament.
- (6) Subsection (5) applies in relation to any policy statement as revised under that subsection as it applies in relation to the first copy of the policy statement laid before the Scottish Parliament under subsection (1).
- (7) In calculating the period of 28 days mentioned in subsections (3)(b) and (5), no account is to be taken of any period during which the Parliament is dissolved or in recess for more than 4 days.
- (8) The Scottish Ministers must lay a draft of the first policy statement under subsection (3)(a) as soon as reasonably practicable after section 1(1) comes into force.>

Mark Ruskell

19 After section 4A, insert—

<Duty to consult and report on use of section 1(1) power in relation to animal sentience

- (1) The Scottish Ministers must prepare, lay before the Scottish Parliament and publish a report on the extent to which they consider that the power under section 1(1) can be used to make such regulations as are necessary to implement fully the principle that animals are sentient beings.
- (2) In preparing the report under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (3) The report under subsection (1) must be published no later than one year after the day of Royal Assent.>

Section 6

Michelle Ballantyne

20 In section 6, page 6, line 19, at end insert—

<() A statement explaining—

- (a) the practical implications of the regulations (including the social benefits and costs),
- (b) any alternative approaches which the Scottish Ministers consider could deliver the same, or more ambitious, outcomes,
- (c) why the chosen approach is the best in the circumstances.>

Liam McArthur

21 In section 6, page 6, line 19, at end insert—

<(5C) If the instrument or draft—

- (a) is laid before a policy statement is published under section 4A(1),
- (b) is laid during the period beginning with the day on which a copy of a revised policy statement is laid before the Scottish Parliament under section (*Procedure for publication of policy statement*)(1) and ending with the day on which the revised policy statement is published under section 4A(2) or (2A)(b)(i), or
- (c) contains provision that involves using the power under section 1(1) in a way that is not in accordance with the policy statement published under section 4A,

a statement explaining why, in the Scottish Ministers' opinion, there are good reasons for laying the instrument or draft at that time or, as the case may be, for using the power in that way.>

Section 7

Angela Constance

22 In section 7, page 6, line 25, at end insert—

<() how that use of the power under section 1(1) contributes or has contributed towards maintaining and advancing standards in relation to the matters mentioned in section *(Purpose of maintaining and advancing standards)*(1)(a) to (e),>

Angela Constance

23 In section 7, page 6, line 27, at end insert—

<(ba) how their intended use of the power under section 1(1) would contribute towards maintaining and advancing standards in relation to the matters mentioned in section *(Purpose of maintaining and advancing standards)*(1)(a) to (e),>

Michael Russell

24 In section 7, page 6, leave out lines 28 and 29

Michael Russell

25 In section 7, page 6, line 30, leave out <, or is being considered,>

Michelle Ballantyne

26 In section 7, page 6, line 31, at end insert—

<() Where a report under subsection (1) specifies any intended use of the power under section 1(1), that report must also specify the parliamentary procedure which the Scottish Ministers expect would apply to those regulations.>

Michael Russell

27 In section 7, page 6, line 32, leave out subsection (1A)

Michael Russell

28 In section 7, page 6, line 40, leave out <of 6 months>

Michael Russell

29 In section 7, page 7, line 1, leave out <6 months> and insert <one year>

Angela Constance

30 In section 7, page 7, line 7, leave out <Subsection (1)(b) does> and insert <Paragraphs (b) and (ba) of subsection (1) do>

Liam McArthur

31 In section 7, page 7, line 8, leave out subsection (3)

After section 7

Liam McArthur

32 After section 7, insert—

<Consultation on reports under section 7(1)

- (1) Before laying a report before the Scottish Parliament under section 7(1), the Scottish Ministers must—
 - (a) lay a draft of the report before the Parliament, and
 - (b) in preparing the report, have regard to any representations about the draft report that are made to them before the expiry of the consultation period.
- (2) References in this section to a draft of the report are references only to a draft of the provision to be contained in the report under section 7(1)(b).
- (3) The draft report must be laid before the Parliament under subsection (1)(a) as soon as practicable, and no later than 2 months, after the end of the reporting period to which it relates.
- (4) Where the Scottish Ministers lay a draft report before the Scottish Parliament under subsection (1)(a), they must not lay the report before the Parliament under section 7(1) before the expiry of the consultation period.
- (5) When laying the report before the Scottish Parliament under section 7(1), the Scottish Ministers must at the same time lay before the Parliament a document setting out—
 - (a) a summary of any representations about the draft report made during the consultation period, and
 - (b) how they have had regard to those representations in preparing the report.
- (6) Where the representations about the draft report made during the consultation period include representations that any particular intended use or uses of the power under section 1(1) as explained in the draft report should instead be provided for by means of an Act of the Scottish Parliament, the document laid under subsection (5) must cover those representations separately.
- (7) In this section, “consultation period” means the period of 28 days beginning with the day on which the draft report is laid before the Scottish Parliament under subsection (1)(a).
- (8) In calculating the period of 28 days mentioned in subsection (7), no account is to be taken of any period during which the Parliament is dissolved or in recess for more than 4 days.>

Dean Lockhart

53 After section 7, insert—

<Reports relating to the non-exercise of the section 1(1) power

- (1) Subsection (2) applies where the relevant committee considers that there has been a significant change in EU law or policy in—
 - (a) environmental protection,
 - (b) animal health and welfare,
 - (c) plant health,
 - (d) equality, non-discrimination and human rights, or
 - (e) social protection,and the Scottish Ministers have not used their power under section 1(1) to make corresponding provision.

- (2) Where this subsection applies, the Scottish Ministers must, if a request is made by the relevant committee, publish a report setting out—
- (a) details of the change in EU law that is the subject of the request,
 - (b) their reasons for not using their power under section 1(1) to make corresponding provision.
- (3) In this section “the relevant committee” means the committee of the Scottish Parliament within whose remit the subject matter of the change in EU law falls.>

Section 10

Roseanna Cunningham

- 33 In section 10, page 9, line 27, after <have> insert <due>

Roseanna Cunningham

- 34 In section 10, page 9, line 29, after <have> insert <due>

Mark Ruskell

- 35 In section 10, page 9, line 33, at end insert—
- <() For the avoidance of doubt, “finance or budgets” means decisions about annual budgets but not long-term economic strategy or fiscal policy.>

Section 11

Roseanna Cunningham

- 36 In section 11, page 10, line 4, after <have> insert <due>

Section 23

Claudia Beamish

- 1 In section 23, page 15, leave out lines 6 to 9

Section 28

Claudia Beamish

- 2 In section 28, page 17, leave out lines 22 to 25

After section 36

Liz Smith

- 3 After section 36, insert—
- <Duty to consult on effectiveness of governance arrangements*
- Duty to consult on effectiveness of governance arrangements**

- (1) The Scottish Ministers must—
 - (a) prepare a report on the matters mentioned in subsection (2), and
 - (b) after preparing the report, consult the persons mentioned in subsection (3).
- (2) The matters referred to in subsection (1)(a) are—
 - (a) whether the provisions of this Chapter have ensured that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the United Kingdom from the EU,
 - (b) whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and
 - (c) whether and, if so, how the establishment of an environmental court could enhance the governance arrangements referred to in paragraph (a).
- (3) The persons referred to in subsection (1)(b) are—
 - (a) Environmental Standards Scotland,
 - (b) such persons as appear to the Scottish Ministers to be representative of the interests of persons likely to be affected by the governance arrangements referred to in subsection (2)(a), and
 - (c) such other persons as the Scottish Ministers consider appropriate.
- (4) The consultation under subsection (1)(b) must begin before the end of the period of 6 months beginning with the date on which Environmental Standards Scotland publishes the strategy under section 18(1).
- (5) The Scottish Ministers must, as soon as reasonably practicable after the consultation under subsection (1)(b) begins, lay before the Scottish Parliament a copy of the consultation document.
- (6) Following the consultation under subsection (1)(b), the Scottish Ministers must lay before the Scottish Parliament a statement setting out—
 - (a) details of the consultation that was carried out under subsection (1)(b),
 - (b) a summary of any views expressed in response to the consultation, and
 - (c) the Scottish Ministers’ recommendations in response to those views.>

Section 37

Roseanna Cunningham

37 In section 37, page 22, line 2, at end insert—

<(vi) a body to which paragraph 3 (reserved bodies) of Part III of schedule 5 of the Scotland Act 1998 applies, or>

Section 39

Mark Ruskell

38 In section 39, page 22, line 24, at end insert—

<() For the avoidance of doubt, “finance or budgets” means decisions about annual budgets but not long-term economic strategy or fiscal policy.>

Roseanna Cunningham

39 In section 39, page 22, line 30, leave out subsection (4)

Roseanna Cunningham

40 In section 39, page 22, line 35, leave out subsection (6)

After section 41

Claudia Beamish

41 After section 41, insert—

<CHAPTER

ENVIRONMENTAL POLICY STRATEGY

Environmental policy strategy

- 5 (1) The Scottish Ministers must prepare and publish an environmental policy strategy.
- (2) The strategy must set out—
- (a) objectives for protecting and improving the environment,
- (b) policies and proposals for achieving the objectives (or a summary or indication of such polices and proposals), and
- 10 (c) arrangements for monitoring progress towards achieving the objectives.
- (3) In preparing the strategy the Scottish Ministers must have regard to the desirability of securing that environmental policy—
- (a) contributes to sustainable development,
- (b) contributes to improving the health and wellbeing of Scotland’s people,
- 15 (c) contributes to objectives in policy areas other than environmental policy,
- (d) integrates environmental policy objectives into the development of policies in other areas,
- (e) responds to global crises in relation to climate change and biodiversity.
- (4) The strategy may consist of one or more documents (and the reference in subsection (3) to the strategy includes any document forming part of it).
- 20 (5) The Scottish Ministers may designate one or more documents as forming the strategy or part of the strategy, whether the document or documents was or were prepared before or after this section comes into force (and whether before or after the Bill for this Act was passed).
- 25 (6) In preparing the strategy or any document forming part of it, and before designating any document as forming the strategy or part of the strategy, the Scottish Ministers must consult—
- (a) such persons as they consider would be likely to be affected by the proposals in the strategy or document,
- 30 (b) such persons as they consider have appropriate expertise or experience in relation to the matters covered by the strategy or document,
- (c) such other persons (if any) as they consider appropriate.

- 35 (7) For the purpose of subsection (6), it is immaterial that anything done by way of consultation was done before this section comes into force (whether before or after the Bill for this Act was passed).
- (8) Before publishing the strategy or any document forming part of it, the Scottish Ministers must lay before the Scottish Parliament—
- (a) a copy of the strategy or document, and
 - (b) a statement setting out—
 - 40 (i) details of the consultation about the strategy or document that was carried out under subsection (6),
 - (ii) a summary of any views expressed in response to the consultation, and
 - 45 (iii) either details of how those views (if any) have been taken into account in preparing the strategy or document or a statement that no views were expressed in response to the consultation or that no account has been taken of views expressed.
- (9) The Scottish Ministers—
- (a) must from time to time review the strategy, and
 - (b) may revise the strategy or any document forming part of it.
- 50 (10) Subsections (3) and (6) to (8) apply to the preparation and publication of a revised strategy or any document forming part of it as they apply to the preparation and publication of the first strategy or any document forming part of it.
- (11) The Scottish Ministers must, in making policies (including proposals for legislation), have regard to the strategy.
- 55 (12) The Scottish Ministers must, before the end of each reporting period, lay before the Scottish Parliament a report containing an explanation of progress towards preparation of the strategy.
- (13) The reporting periods are—
- 60 (a) the period of one year beginning with the day on which this section comes into force,
 - (b) each subsequent period of one year while the duty under subsection (12) has effect.
- (14) The duty under subsection (12) ceases to have effect when a copy of the strategy or any document forming part of it is laid before the Scottish Parliament under subsection (8) provided that consultation in accordance with subsection (6) was carried out in relation to the strategy or document after this section comes into force.
- 65 (15) In this section—
- “the environment” and “environmental protection” have the meanings given by section 40,
 - “making policies” includes developing, adopting and revising policies.>

Mark Ruskell

41A As an amendment to amendment 41, line 12, at end insert—

<() aims at a high level of environmental protection,>

Mark Ruskell

- 41B** As an amendment to amendment 41, line 9, leave out <and> and insert—
<() a date by which the objectives are to be achieved, and>

Claudia Beamish

- 41C** As an amendment to amendment 41, line 53, after <have> insert <due>

Section 45

Michelle Ballantyne

- 42** In section 45, page 26, line 14, at end insert—
<() A Scottish statutory instrument containing regulations under this section which bring sections 1 and 2 into force must be laid before the Scottish Parliament no later than 31 March 2021.>

Schedule 1

Mark Ruskell

- 43** In schedule 1, page 31, line 8, at end insert—
<Resources
(1) The Scottish Ministers must seek to ensure that the amount of resources allocated for use by Environmental Standards Scotland is reasonably sufficient to enable it to perform its functions.
(2) Each report prepared under paragraph 12 must include an assessment by Environmental Standards Scotland of whether the amount of resources allocated for use by it in the financial year to which the report relates was sufficient to enable it to perform its functions.
(3) Sub-paragraph (2) does not affect the generality of paragraph 12(2).>

Long Title

Claudia Beamish

- 44** In the long title, page 1, line 7, after <environment;> insert <to require the preparation and publication of an environmental policy strategy;>

© Parliamentary copyright. Scottish Parliamentary Corporate Body

The Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000.

Published in Scotland by the Scottish Parliamentary Corporate Body

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk
