

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

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 38  
Long Title

Schedules 1 to 3

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

### Before section 1

**Adam Tomkins**

**Supported by: Jamie Greene**

14 Before section 1, insert—

#### <PART

#### PRINCIPLE OF PROTECTING UK SINGLE MARKET

#### Principle of protecting UK single market

- 5 (1) No exercise by the Scottish Ministers of any power under this Act may impede or obstruct the operation of the United Kingdom domestic market as it operated before exit day.
- (2) For the purposes of this Act, the “United Kingdom domestic market” means the body of shared enactments, case law and practices that provide for—
- 10 (a) the free movement of goods, capital, services and labour, and
- (b) the unimpeded operation of commercial, economic, social and cultural activity and behaviour,
- across the nations of the United Kingdom.
- 15 (3) For the purposes of this Act, the exercise of any power so as to impede or obstruct the United Kingdom domestic market includes, but is not limited to, the making of any enactment—
- (a) that would result in regulatory divergence materially damaging the ability of individuals, corporations or entities based in Scotland to trade, contract or do business in any form, with individuals, corporations or entities in the rest of the
- 20 United Kingdom, or
- (b) which restricts the free movement of goods, capital, services or labour in the United Kingdom.>

**Neil Findlay**

**14A** As an amendment to amendment 14, line 22, at end insert—

<(4) Regulations under section 36(2) may not appoint a day for the coming into force of subsections (1), (2) and (3) until—

- (a) the Secretary of State,
- (b) the Welsh Ministers, and
- (c) a Northern Ireland department,

provide an equivalent commitment that each will not act in a way that impedes or obstructs the operation of the United Kingdom domestic market as it operated before exit day.

(5) Once in force, subsections (1), (2) and (3) may remain in force only until the earlier of—

- (a) the end of the period of 6 months, or
- (b) an agreement on United Kingdom common frameworks is reached among—
  - (i) the Secretary of State,
  - (ii) the Scottish Ministers,
  - (iii) the Welsh Ministers, and
  - (iv) a Northern Ireland department.>

**Section 1**

**Donald Cameron**

**Supported by: Jamie Greene**

**18** In section 1, page 1, line 24, at end insert—

<( ) No power conferred upon the Scottish Ministers under this Act may be used in a manner contrary to any provision of the Scotland Act 1998 including, but not limited to, section 29 of that Act.>

**Section 10**

**Tavish Scott**

**15** In section 10, page 6, line 34, leave out from <may> to end of line 35 and insert <must, where it considers it relevant for the interpretation of retained (devolved) EU law, have regard to—

- (a) any principles laid down, or any judgments made, on or after exit day by the European Court, and
- (b) anything done on or after exit day by another EU entity or the EU.>

**Section 11**

**Neil Findlay**

**19** In section 11, page 8, line 16, leave out <the Scottish Ministers consider>

**Neil Findlay**

**20** In section 11, page 8, line 17, leave out <that>

**Neil Findlay**

- 21 In section 11, page 8, line 21, leave out <that>

**Neil Findlay**

- 22 In section 11, page 8, line 23, leave out <they may by regulations make such provision as they consider appropriate> and insert <the Scottish Ministers may by regulations make provision necessary>

**Michael Russell**

- 23 In section 11, page 9, line 11, leave out <necessary> and insert <appropriate>

**Michael Russell**

- 24 In section 11, page 9, line 28, leave out <newly established or>

**Michael Russell**

- 25 In section 11, page 9, line 39, at end insert—

<( ) provide for the establishment of a Scottish public authority,>

## **Section 12**

**Neil Findlay**

- 26 In section 12, page 10, line 27, leave out <the Scottish Ministers consider>

**Neil Findlay**

- 27 In section 12, page 10, line 28, leave out <that>

**Neil Findlay**

- 28 In section 12, page 10, line 30, leave out <that>

**Neil Findlay**

- 29 In section 12, page 10, line 32, leave out <they may by regulations make such provision as they consider appropriate> and insert <the Scottish Ministers may by regulations make provision necessary>

**Michael Russell**

- 30 In section 12, page 10, line 39, at end insert—

<( ) provide for the establishment of a Scottish public authority,>

## **Section 13**

**Jamie Greene**

- 31 In section 13, page 11, line 40, leave out <appropriate> and insert <necessary>

**Jamie Greene**

- 32 In section 13, page 12, line 6, leave out <appropriate> and insert <necessary>

**Jamie Greene**

- 33 In section 13, page 12, line 9, leave out <appropriate> and insert <necessary>

**Jamie Greene**

- 34 In section 13, page 12, line 15, leave out <appropriate> and insert <necessary>

**Michael Russell**

- 35 In section 13, page 12, line 21, leave out <newly established or>

**Michael Russell**

- 36 In section 13, page 13, line 3, leave out <broadly>

**Tavish Scott**

- 37 In section 13, page 13, line 3, at end insert—

<(6A) No regulations may be made under subsection (1) where, following consultation under section 15, all of the persons mentioned in subsection (6B) have informed the Scottish Ministers in writing that they do not agree to the regulations being made.

(6B) The persons are—

- (a) the Secretary of State,
- (b) the Welsh Ministers,
- (c) a Northern Ireland department.>

**Mike Rumbles**

- 1 Leave out section 13

**After section 13**

**Ash Denham**

- 38 After section 13, insert—

**<Reports relating to the exercise of the section 13(1) power**

- (1) The Scottish Ministers must, for each reporting period, prepare and lay before the Scottish Parliament a report containing an explanation of how the power under section 13(1) has been used in the reporting period.
- (2) The reporting periods are—
  - (a) the period of one year beginning with exit day, and
  - (b) each subsequent period of one year (during the total period in which regulations may be made under section 13(1) in accordance with section 13(7) to (8A)).
- (3) Each report must be laid before the Parliament as soon as practicable after the end of the reporting period to which it relates.>

**Claudia Beamish**  
**Supported by: Colin Smyth**

**39** After section 13, insert—

**<Section 11(1), 12 and 13(1) powers: guiding principles on the environment and animal welfare**

- (1) In making provision in regulations under section 11(1), 12 or 13(1), the Scottish Ministers must have regard to the guiding principles on the environment and animal welfare.
- (2) Subsection (1) requires the Scottish Ministers to have regard to those guiding principles only so far as the Scottish Ministers consider them to be relevant to the provision being made in the regulations.
- (3) The guiding principles on the environment and animal welfare are—
  - (a) the precautionary principle as it relates to the environment,
  - (b) that preventative action should be taken to avert environmental damage,
  - (c) that environmental damage should as a priority be rectified at source,
  - (d) that the polluter should pay,
  - (e) that regard must be had to the welfare requirements of animals as sentient beings.
- (4) Those principles are derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union and accordingly they are to be interpreted, so far as appropriate, in a manner consistent with the interpretation of those equivalent principles by the European Court from time to time.>

#### **Section 14**

**Mike Rumbles**  
**Supported by: Michael Russell**

**2** In section 14, page 13, line 19, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

**Michael Russell**

**40** In section 14, page 13, leave out lines 22 to 25

**Mike Rumbles**

**3** In section 14, page 13, line 25, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

**Mike Rumbles**  
**Supported by: Michael Russell**

**4** In section 14, page 13, line 37, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

**Mike Rumbles**

**5** In section 14, page 13, line 39, leave out <or 13(8)>

**Michael Russell**

**41** In section 14, page 13, line 39, leave out <13(8)> and insert <13>

**Mike Rumbles**

- 6 In section 14, page 14, line 1, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

**Michael Russell**

- 42 In section 14, page 14, line 2, leave out <(2)(a), (b), (ba)> and insert <(2)(ba)>

**Jamie Greene**

- 43 In section 14, page 14, line 26, leave out subsections (10A) and (10B)

**Section 14A**

**Mike Rumbles**

- 7 In section 14A, page 14, line 38, leave out <11, 12 or 13> and insert <11 or 12>

**Ross Greer**

- 44 Leave out section 14A and insert—

**<14A Additional scrutiny of regulations**

- (1) This section applies where the Scottish Ministers—
  - (a) lay a Scottish statutory instrument containing regulations which have been made under section 11, 12 or 13 before the Scottish Parliament,
  - (b) lay a draft Scottish statutory instrument containing regulations under section 11, 12 or 13 before the Scottish Parliament for approval.
- (2) The Scottish Ministers must lay before the Scottish Parliament—
  - (a) a copy of the regulations or draft regulations,
  - (b) a statement setting out the Scottish Ministers’ opinion on the scrutiny procedure to which the regulations or draft regulations will be subject, and
  - (c) their reasons for that opinion.
- (3) If the committee of the Scottish Parliament mentioned in Rule 6.11 of the Standing Orders of the Parliament, within the relevant period, by resolution, makes a recommendation mentioned in subsection (5), the Scottish Ministers must proceed in accordance with that recommendation.
- (4) For the purposes of subsection (3), the “relevant period” means the period of 20 sitting days (within the meaning given by the Standing Orders of the Scottish Parliament) beginning with the day on which the regulations or draft regulations are laid before the Parliament.
- (5) The recommendation may be that, regardless of the Scottish Ministers’ opinion on the appropriate scrutiny procedure, the regulations or draft regulations—
  - (a) should be subject to the negative procedure,
  - (b) should be subject to the affirmative procedure,
  - (c) should be subject to the affirmative procedure and to the requirements set out in paragraphs (a) and (b) of section 14(5).
- (6) If the recommendation is that regulations which have been made subject to the negative procedure should be subject to the affirmative procedure—

- (a) the regulations are to be treated as having been revoked by the Scottish Ministers on the date the recommendation is made,
  - (b) the Scottish statutory instrument containing the regulations is to be treated instead as a draft Scottish statutory instrument laid before the Scottish Parliament for approval on the date the original instrument was laid, and
  - (c) the regulations may be adjusted by the Scottish Ministers to take account of the effect of paragraphs (a) and (b) (including, in particular, by adjusting the date on which the regulations are to come into force).
- (7) If the recommendation is that regulations which have been made subject to the negative procedure should be subject to the affirmative procedure and to the requirements set out in paragraphs (a) and (b) of section 14(5), the regulations are to be treated as having been revoked by the Scottish Ministers on the date the recommendation is made.
- (8) Where subsection (6)(a) or (7) applies, so far as the regulations are in force on that date, nothing further is to be done or continued under, or in reliance on, the regulations after that date.
- (9) Subsection (8) does not affect the validity of anything previously done under the regulations.
- (10) This section does not apply to regulations or draft regulations if they contain a declaration that the Scottish Ministers consider that, by reason of urgency, it is necessary to make the regulations or draft regulations without this section applying to them.>

## **Section 15**

### **Neil Findlay**

- 45** In section 15, page 15, line 27, leave out <about their proposals such persons as they consider appropriate> and insert <appropriate persons>

### **Michael Russell**

- 46** In section 15, page 15, line 31, before <their> insert <in the case of proposed regulations under section 11(1),>

## **Section 16**

### **Mike Rumbles**

- 8** In section 16, page 15, line 37, leave out <11(1), 12 or 13(1)> and insert <11(1) or 12>

### **Neil Bibby**

- 47** In section 16, page 16, line 14, at end insert—
- <(4A) When the instrument or draft is laid, the Scottish Ministers must make a statement explaining the effect (if any) of the instrument or draft on—
- (a) rights and duties relating to employment and health and safety,
  - (b) matters relating to consumer protection,
- so far as it is within devolved competence (within the meaning of section 54 of the Scotland Act 1998) for the instrument to have any such effect.>

**Donald Cameron**  
**Supported by: Jamie Greene**

48 In section 16, page 16, line 20, at end insert—

<(5A) If the instrument or draft is laid when the Scottish Parliament is in recess, the Scottish Ministers must make a statement explaining why the instrument or draft was laid at that time.>

**Tavish Scott**

49 In section 16, page 16, line 28, at end insert—

<( ) In the case of a draft of an instrument containing regulations under section 13(1), the Scottish Ministers must make a statement on their assessment of the impact of the draft instrument on the operation of the single market in goods and services within the United Kingdom.>

**Michael Russell**

50 In section 16, page 16, line 29, after <(4),> insert <(4A),>

**Donald Cameron**  
**Supported by: Jamie Greene**

51 In section 16, page 16, line 29, after <(5)> insert <, (5A)>

**Michael Russell**

52 In section 16, page 16, line 32, after <(4),> insert <(4A),>

**Donald Cameron**  
**Supported by: Jamie Greene**

53 In section 16, page 16, line 32, after <(5),> insert <(5A),>

**Neil Findlay**

54 In section 16, page 16, line 33, leave out <in such manner as the Scottish Ministers consider appropriate>

## **Section 19**

**Mike Rumbles**

9 In section 19, page 18, leave out line 9

## **Section 21**

**Michael Russell**

55 In section 21, page 19, line 8, leave out <paragraph> and insert <section>

## **Section 22**

**Mike Rumbles**

10 In section 22, page 19, line 10, leave out <11, 12 or 13> and insert <11 or 12>



## After section 26

**Mark Ruskell**

**56** After section 26, insert—

### <PART

#### ENVIRONMENT

##### **Environmental matters: duty to consult**

- (1) The Scottish Ministers must, not later than the end of the period of 6 months beginning with the day on which this section comes into force—
  - (a) prepare proposals about the matters set out in subsections (2) and (3),
  - (b) consult on those proposals in accordance with subsection (4), and
  - (c) lay before the Scottish Parliament a report setting out a summary of—
    - (i) the comments received in response to the consultation, and
    - (ii) the Scottish Ministers' views on those comments.
- (2) The first matter is how regard is to be had to the guiding principles on the environment—
  - (a) by the Scottish Ministers in—
    - (i) developing policies (including proposals for legislation), and
    - (ii) determining how to exercise any of their functions, and
  - (b) by any other Scottish public authority in determining how to exercise any of its functions.
- (3) The second matter is how to ensure that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the United Kingdom from the EU.
- (4) The Scottish Ministers must consult—
  - (a) such Scottish public authorities, or bodies representative of the interests of such Scottish public authorities, as would be affected by the proposals, and
  - (b) such other persons as they consider appropriate.
- (5) The guiding principles on the environment are—
  - (a) the precautionary principle as it relates to the environment,
  - (b) that preventative action should be taken to avert environmental damage,
  - (c) that environmental damage should as a priority be rectified at source,
  - (d) that the polluter should pay.
- (6) Those principles are derived from the equivalent principles provided for in Article 191(2) in Title XX of the Treaty on the Functioning of the European Union and accordingly they are to be interpreted, so far as appropriate, in a manner consistent with the interpretation of those equivalent principles by the European Court from time to time.
- (7) In subsection (3), “governance”, in relation to the environment, means appropriate arrangements for the purposes of ensuring—

- (a) compliance with the law relating to the environment, and
  - (b) effective implementation of policy relating to the environment.
- (8) In subsection (7), “appropriate arrangements” includes functions equivalent to those carried out before exit day by the European Commission, the European Court and any other EU institution for the purposes mentioned in that subsection.>

### **Section 27**

#### **Michael Russell**

- 57 In section 27, page 21, line 25, leave out from <means> to end of line 31 and insert <(except in section 2 or where there is otherwise a contrary intention) includes any retained (devolved) direct legislation,>

### **Section 28**

#### **Ivan McKee**

- 58 In section 28, page 23, line 39, at end insert—
- <( ) For the purposes of this section, the United Kingdom leaves the EU when the Treaty on European Union and the Treaty on the Functioning of the European Union cease to apply to the United Kingdom as a consequence of UK withdrawal.>

### **Section 31**

#### **Mike Rumbles**

- 11 In section 31, page 25, line 5, leave out <Subject to subsection (1A),>

#### **Mike Rumbles**

- 12 In section 31, page 25, line 10, leave out subsection (1A)

#### **Murdo Fraser**

##### **Supported by: Jamie Greene**

- 16 In section 31, page 25, line 17, leave out <28> and insert <21>

#### **Murdo Fraser**

##### **Supported by: Jamie Greene**

- 17 In section 31, page 25, line 19, leave out <28> and insert <21>

### **Section 31A**

#### **Michael Russell**

- 59 In section 31A, page 25, line 33, leave out <is it> and insert <it is>

## Section 32

### Michael Russell

60 In section 32, page 26, line 6, at end insert—

<( ) The power in subsection (1) includes power to make provision in consequence of, or in connection with, the European Union (Withdrawal) Act 2018 or any other enactment making provision for the purpose set out in section 1(1) or an equivalent purpose.>

## Section 36

### Tavish Scott

61 In section 36, page 26, line 34, at end insert—

<(2A) Regulations appointing a day for the coming into force of section 13 are subject to the affirmative procedure.

(2B) The Scottish Ministers may not lay before the Scottish Parliament a draft Scottish statutory instrument containing regulations appointing a day for the coming into force of section 13 until the end of the period of one month beginning with the day on which they comply with subsection (2C).

(2C) The Scottish Ministers must lay before the Parliament a report setting out—

(a) why they consider it necessary to bring section 13 into force, and

(b) the purposes for which they intend to use the section 13 powers.>

## Section 36A

### Jamie Greene

62 Leave out section 36A and insert—

#### <Reports relating to deficiencies arising from UK withdrawal

(1) The Scottish Ministers must, for each reporting period, prepare and lay before the Scottish Parliament a report that describes how deficiencies in retained (devolved) EU law have been addressed by the Scottish Ministers, including by—

(a) making regulations under section 11(1), or

(b) giving consent to subordinate legislation to which section 17 applies.

(2) The reporting periods are—

(a) the period beginning with the date on which this section comes into force and ending on exit day, and

(b) the period beginning with exit day and ending on the date of expiry of the power to make regulations under section 11(1).

(3) Each report must be laid before the Scottish Parliament as soon as practicable after the end of the reporting period to which it relates.

(4) In this section, “deficiencies in retained (devolved) EU law” has the same meaning as in section 11.>

## After section 36A

**Anas Sarwar**

**63** After section 36A, insert—

### <Duty to make arrangements for an independent evaluation: health and social care

- (1) The Scottish Ministers must arrange for the preparation and publication of an independent evaluation of the effect of this Act, and any regulations made under it, on the health and social care sector.
- (2) The evaluation is to be published no later than the end of the period of one year beginning with the day of Royal Assent,
- (3) The evaluation is to be carried out by an independent person to be appointed by the Scottish Ministers.
- (4) The evaluation must—
  - (a) analyse and assess the effect of this Act, and any regulations made under it, on—
    - (i) the funding of the health and social care sector,
    - (ii) the health and social care workforce,
    - (iii) the economy, efficiency and effectiveness of the health and social care sector, and
  - (b) include any other such matters relevant to the effect of this Act upon the health and care sector as the Scottish Ministers consider appropriate.
- (5) The person undertaking the evaluation must, in preparing the evaluation, consult—
  - (a) the Secretary of State,
  - (b) the Welsh Ministers,
  - (c) a Northern Ireland department,
  - (d) providers of health and social care services,
  - (e) individuals receiving health and social care services,
  - (f) organisations working for and on behalf of individuals receiving health and social care services, and
  - (g) such other persons as the Scottish Ministers consider appropriate.
- (6) The Scottish Ministers must, as soon as reasonably practicable after receiving a report of the evaluation, lay a copy of the report before the Parliament.>

## Schedule 2

**Mike Rumbles**

**13** In schedule 2, page 34, line 30, leave out <11, 12 or 13> and insert <11 or 12>

## Schedule 3

**Michael Russell**

**64** In schedule 3, page 35, line 16, after <27(1)> insert <and schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010>

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