

Rt Hon Nicola Sturgeon MSP
First Minister of Scotland



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Rt Hon John Bercow MP
Speaker of the House of Commons
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9 June 2018

Dear Mr Speaker

As you will be aware, clauses within the European Union (Withdrawal) Bill require the legislative consent of the Scottish Parliament, as set out by the UK Government in the Bill's accompanying documents. The Presiding Officer of the Scottish Parliament wrote to you on 16 May to notify you that consent has not been forthcoming.

I understand the House of Commons will be considering the Lords amendments to the Bill on 12 and 13 June. The Bill completed its stages in the Lords without addressing the matters that are central to the Scottish Parliament's refusal to give consent. The Bill that has returned to the House of Commons does not therefore have the legislative consent of the Scottish Parliament to relevant provisions.

By constitutional convention and practice since 1999, the Bill cannot complete its Westminster stages in its current form without that consent.

The UK Government should now bring forward amendments to those made in the Lords that would reflect the views of the Scottish Parliament. The UK Government has not yet indicated to the Scottish Parliament or Government the actions it intends to take, if any, in respect to the decision of the Scottish Parliament.

There remains the opportunity for the House of Commons to amend the Bill to reflect the views of the Scottish Parliament, in line with well-established constitutional principles and rules. The Scottish Government has drafted amendments, attached to this letter, to make the necessary changes. I understand that these, or similar, amendments should be lodged for debate during Commons Consideration of Lords Amendments.

I note that during Questions to the Secretary of State for Scotland on 6 June, the Secretary of State, said “with your discretion, Mr Speaker, there will be an opportunity in this House to discuss clause 15 next week”. The convention on legislative consent has consistently worked until this point because the views of the Scottish Parliament have always been respected and properly taken into account in legislation. I believe we now face an unprecedented constitutional position, which puts at risk 19 years of constitutional convention and practice, on which devolution relies.

I therefore hope you will feel able to use your offices to ensure that, prior to taking this unprecedented step, the House of Commons will have the opportunity to debate these amendments and the fundamental constitutional issues involved in their consideration of the Bill.

I am copying this letter to the Lord Speaker, the Presiding Officer, the Leader of the House, and the Chairs and Conveners of the Westminster and Scottish Parliamentary Committees represented on the Inter-Parliamentary Forum on Brexit.

With kind regards
Nicola

NICOLA STURGEON

ANNEX

European Union (Withdrawal) Bill Commons Consideration of Lords Amendments

Clause 11

1 Lords Amendment No. 26:

As an Amendment to the Lords Amendment, in line 3, leave out from “EU law)” to end of subsection (2) and insert “, omit “or with EU law”

Schedule 3

2 Lord Amendment No. 85:

To move, That this House disagrees with the Lords in their Amendment.

3 To move the following consequential Amendment to the Bill:

In schedule 3, page 28, line 25, leave out from “, and” to end of line 37

Schedule 2

4 Lords Amendment No. 59:

As an Amendment to the Lords Amendment, in line 2, in paragraph 3A, leave out sub-paragraph (1)

5 Lords Amendment No. 59:

As an Amendment to the Lords Amendment, in line 45, leave out “(1),”

6 Lords Amendment No. 59:

As an Amendment to the Lords Amendment, in line 46, leave out “(1)(b),”

7 Lords Amendment No. 59:

As an Amendment to the Lords Amendment, in line 46, leave out “sections 30A and 57(4) to (15) of the Scotland Act 1998,”

Clause 11

This amendment would remove the ability to make regulations under clause 11 restricting the competence of the Scottish Parliament and also remove from the Scotland Act 1998 the requirement for the Parliament to legislate compatibly with EU law.

Schedule 3

These oppose an amendment made by the House of Lords, which would restrict the executive competence of the Scottish Ministers, and also remove from the Scotland Act 1998 the requirement to act compatibly with EU law after EU withdrawal.

Schedule 2

These are consequential amendments, related to the removal of the clause 11 power.