



Bruce Crawford MSP  
Convener  
Finance and Constitution Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

19 September 2017

Dear Bruce,

In my letter to you of 1 September and my statement to Parliament of 12 September, I set out why the Scottish Government would not be able to recommend that Parliament give its consent to the European Union (Withdrawal) Bill, as it is currently drafted. A particular problem with the Bill is its failure to reflect the principles of devolution. The Scottish Government has been working with the Welsh Government to prepare a set of amendments to the Bill which would, if made, turn the Bill into one that properly respects devolution and ensures that the Scottish Parliament and the National Assembly for Wales do not have their competence restricted by EU withdrawal.

These amendments are attached, along with a note that summarises their purpose and effect. The same amendments have been sent by Professor Mark Drakeford AM, the Cabinet Secretary for Finance and Local Government in the Welsh Government, to Huw Irranca-Davies AM, Chair of the Constitutional and Legislative Affairs Committee.

The restrictions in clause 11 of the Bill apply to many areas of Scottish devolved responsibility vital to the success of our country, such as agriculture, the environment, fisheries, forestry, research, or justice co-operation. The restrictions have the effect that the Scottish Parliament would have no say over what is done with these important policy areas after EU withdrawal.

There is considerable interest in the over 100 areas that I indicated were affected by these restrictions. I have therefore annexed to this letter a working summary of these areas, in order to inform your consideration of these matters. I should be clear that the list represents an initial assessment by the UK Government of where EU competences intersect with devolution and which therefore would be affected by the restrictions in the Bill.

The UK Government prepared the list in order to inform discussion between the Scottish and UK Governments about where it may be necessary to agree common frameworks.

The Scottish Government is clear that any policy areas within devolved competence, carried out at EU level, should return to the Scottish Parliament in the event the UK leaves the EU. Given the way the European Union (Withdrawal) Bill is drafted, the extent of the list presented to the Scottish Government illustrates the scale of potential UK Government control over devolved policy areas.

As I made clear in my statement, the Scottish Government recognises that there may be the need for frameworks in the future and we are in discussion with the UK Government and the other devolved administrations to agree how such consideration might be taken forward. We will, however, only be able to agree frameworks based on respect for devolution, including the existing well established arrangements for co-operation, and not on the basis of the Bill as it stands.



**MICHAEL RUSSELL**

## **Powers returning from the EU that intersect with the devolution settlement in Scotland**

1. Agricultural Support
2. Agriculture - Fertiliser Regulations
3. Agriculture - GMO Marketing & Cultivation
4. Agriculture - Organic Farming
5. Agriculture - Zootech
6. Animal Health and Traceability
7. Animal Welfare
8. Aviation Noise Management at Airports
9. Blood Safety and Quality
10. Carbon Capture & Storage
11. Chemicals regulation (including pesticides)
12. Civil judicial co-operation - jurisdiction and recognition & enforcement of judgments in civil & commercial matters (including B1 rules and related EU conventions)
13. Civil judicial co-operation - jurisdiction and recognition & enforcement of judgments instruments in family law (including BIIa, Maintenance and civil protection orders)
14. Civil judicial cooperation on service of documents and taking of evidence
15. Criminal offences minimum standards measures - Combating Child Sexual Exploitation Directive
16. Control of major accident hazards
17. Cross border mediation
18. Data sharing - (EU fingerprint database (EuroDac))
19. Data sharing - European Criminal Records Information System (ECRIS)
20. Data sharing - False and Authentic Documents Online (FADO)
21. Data sharing - passenger name records
22. Data sharing - Prüm framework
23. Data sharing - Schengen Information System (SIS II)
24. Efficiency in energy use
25. Elements of Reciprocal Healthcare
26. Elements of the Network and Information Security (NIS) Directive
27. Elements of Tobacco Regulation
28. Energy Performance of Buildings Directive
29. Environmental Impact Assessment (EIA) Directive
30. Environmental law concerning energy planning consents
31. Environmental law concerning offshore oil & gas installations within territorial waters
32. Environmental quality - Air Quality
33. Environmental quality - Chemicals
34. Environmental quality - Flood Risk Management
35. Environmental quality - International timber trade (EUTR and FLEGT)
36. Environmental quality - Marine environment
37. Environmental quality - Natural Environment and Biodiversity
38. Environmental quality - Ozone depleting substances and F-gases
39. Environmental quality - Pesticides
40. Environmental quality - Spatial Data Infrastructure Standards

41. Environmental quality - Waste Packaging & Product Regulations
42. Environmental quality - Waste Producer Responsibility Regulations
43. Environmental quality - Water Quality
44. Environmental quality - Water Resources
45. Environmental quality - Biodiversity - access and benefit sharing of genetic resources
46. Equal Treatment Legislation
47. EU agencies - EU-LISA
48. EU agencies - Eurojust
49. EU agencies - Europol
50. EU Social Security Coordination
51. Fisheries Management & Support
52. Food and Feed Law
53. Food Compositional Standards
54. Food Geographical Indications (Protected Food Names)
55. Food Labelling
56. Forestry (domestic)
57. Free movement of healthcare (the right for EEA citizens to have their elective procedure in another member state)
58. Genetically modified micro-organisms contained use
59. Good laboratory practice
60. Harbours
61. Hazardous Substances Planning
62. Heat metering and billing information
63. High Efficiency Cogeneration
64. Implementation of EU Emissions Trading System
65. Ionising radiation
66. Land use
67. Late payment (commercial transactions)
68. Legal aid in cross-border cases
69. Migrant Access to benefits
70. Minimum standards -housing & care: regulation of the use of animals
71. Minimum standards legislation - child sexual exploitation
72. Minimum standards legislation - cybercrime
73. Minimum standards legislation - football disorder
74. Minimum standards legislation - human trafficking
75. Mutual recognition of professional qualifications
76. Mutual recognition of criminal court judgments measures & cross border cooperation - European Protection Order, Prisoner Transfer Framework Directive, European Supervision Directive, Compensation to Crime Victims Directive
77. Nutrition health claims, composition and labelling
78. Onshore hydrocarbons licensing
79. Organs
80. Plant Health, Seeds and Propagating Material
81. Practical cooperation in law enforcement - Asset Recovery Offices
82. Practical cooperation in law enforcement - European Investigation Order
83. Practical cooperation in law enforcement - Joint Action on Organised Crime

84. Practical cooperation in law enforcement - Joint investigation teams
85. Practical cooperation in law enforcement - mutual legal assistance
86. Practical cooperation in law enforcement - mutual recognition of asset freezing orders
87. Practical cooperation in law enforcement - mutual recognition of confiscation orders
88. Practical cooperation in law enforcement - Schengen Article 40
89. Practical cooperation in law enforcement - Swedish initiative
90. Practical cooperation in law enforcement - European judicial network
91. Practical cooperation in law enforcement - implementation of European Arrest Warrant
92. Procedural rights (criminal cases) - minimum standards measures
93. Provision of legal services
94. Provision in the 1995 Data Protection Directive (soon to be replaced by the General Data Protection Regulation) that allows for more than one supervisory authority in each member state
95. Public sector procurement
96. Public health (serious cross-border threats to health)
97. Radioactive Source Notifications – Trans-frontier shipments
98. Radioactive waste treatment and disposal
99. Rail franchising rules
100. Rail markets and operator licensing
101. Recognition of insolvency proceedings in EU Member States
102. Renewable Energy Directive
103. Rules on applicable law in civil & commercial cross border claims
104. Sentencing - taking convictions into account
105. State Aid
106. Statistics
107. Strategic Environmental Assessment (SEA) Directive
108. Tissues and cells
109. Uniform fast-track procedures for certain civil and commercial claims (uncontested debts, small claims)
110. Victims rights measures (criminal cases)
111. Voting rights and candidacy rules for EU citizens in local government elections

## **THE PROPOSED AMENDMENTS TO THE EUROPEAN UNION (WITHDRAWAL) BILL**

### **A. UK GOVERNMENT FIXING ETC. POWERS: MODIFICATION OF THE SCOTLAND ACT 1998 OR THE GOVERNMENT OF WALES ACT 2006**

The established methods for modifying the 1998 and 2006 Acts which provide for the devolution settlements for Scotland and Wales are by new Parliamentary legislation, for which the devolved legislatures' consent is required in accordance with the Sewel convention, or by orders under those Acts, which again require the consent of the relevant legislature. But as currently drafted, UK Ministers' powers to make statutory instruments in clauses 7 to 9 of the Bill can be used to make amendments to the statutes containing the principles of the devolution settlements for Scotland and Wales, without any requirement for consent.

**Proposed amendments 1 and 2** would prevent the power to correct deficiencies in retained EU law and the power to ensure compliance with international obligations being used to amend the Scotland Act 1998 and the Government of Wales Act 2006. Where however amendments to these Acts becomes necessary (perhaps urgently) in order to implement the withdrawal agreement, **proposed amendment 3** would continue to allow such amendments to the 1998 and 2006 Acts to be made, but with consent from the relevant devolved administration.

### **B. UK GOVERNMENT FIXING ETC. POWERS: REQUIREMENT FOR CONSENT OF SCOTTISH MINISTERS OR WELSH MINISTERS IF MAKING PROVISION WITHIN DEVOLVED COMPETENCE**

As currently drafted, UK Ministers' powers to make statutory instruments under clauses 7 to 9 of the Bill could be used to make provision in policy areas which are the responsibility of Scottish or Welsh Ministers. The Scottish Government and Welsh Government acknowledge that there may be circumstances justifying amendments to laws in devolved areas being made on a UK-wide basis, but they consider that this should only be possible with the consent of the devolved administrations

**Proposed amendments 4 to 6** would mean that UK Ministers would be required to secure the consent of the Welsh Ministers or the Scottish Ministers, before making provision which would be within those Ministers' devolved competence. Devolved Ministers would then be accountable to their legislatures for any decision to consent to the UK Ministers legislating on such a basis.

### **C. LEGISLATIVE AND EXECUTIVE COMPETENCE: REMOVAL OF “RETAINED EU LAW” RESTRICTION / UK FRAMEWORKS PROVISION**

As currently drafted, clause 11 of the Bill amends both devolution acts by inserting a new restriction on the competence of the devolved legislatures which would prevent the Scottish Parliament and the National Assembly for Wales from passing legislation which modifies retained EU law, even in areas of devolved responsibility. And provision in Part 1 of Schedule 3 to the Bill has the effect that Scottish or Welsh Ministers would have no powers to make, confirm or approve any subordinate legislation so far as it modifies retained EU law.

The Welsh Government and Scottish Government consider that these provisions fundamentally cut across the principles of the devolution settlements, and they are strongly opposed to them.

**Proposed amendments 7 and 8** would remove these new restrictions in clause 11 and Schedule 3.

### **D. SCOTTISH MINISTERS AND WELSH MINISTERS FIXING ETC. POWERS: REMOVAL OF RESTRICTIONS AND CONSENT REQUIREMENT**

As currently drafted, there are a number of restrictions placed on devolved Ministers' use of the powers in the Bill which are not placed on UK Ministers. We are aware that there are significant concerns in Parliament about the very broad scope of the Henry VIII powers proposed in the Bill, and would be supportive of amendments which sought to define these more narrowly. However, we also believe, as a matter of principle, that devolved Ministers should have the same powers in respect of matters falling within devolved competence as UK Ministers are being given.

**Proposed amendments 9, 13 and 16** remove the restrictions preventing the powers being used to confer a power to legislate, bringing the powers into line with those being given to UK Ministers.

**Proposed amendments 10, 11, 14, 17 and 18** remove the restrictions placed on the Scottish and Welsh Ministers' ability to amend directly applicable EU law incorporated into UK law, again bringing the powers into line with those being given to UK Ministers.

**Proposed amendments 12, 15 and 19** replace requirements imposed on Scottish and Welsh Ministers to seek UK Ministers' consent in certain circumstances with a requirement to consult UK Ministers before making certain types of provision.

### **CONSEQUENTIAL AMENDMENTS**

**Proposed amendments 20 to 38** are consequential on the principal amendments described above.





## **European Union (Withdrawal) Bill**

### **UK GOVERNMENT FIXING ETC. POWERS: MODIFICATION OF THE SCOTLAND ACT 1998 OR THE GOVERNMENT OF WALES ACT 2006**

#### **Clause 7**

- 1 In clause 7, page 6, line 13, after <it,> insert—  
<() modify the Scotland Act 1998 or the Government of Wales Act 2006,>

#### **Clause 8**

- 2 In clause 8, page 6, line 38, at end insert <, or  
( ) modify the Scotland Act 1998 or the Government of Wales Act 2006.>

#### ***Explanatory statement***

***Amendments 1 and 2 prevent UK ministerial regulations being used to change the devolution settlements for Scotland and Wales.***

***They adjust the regulation-making powers which the Bill confers on the UK Government to deal with deficiencies in retained EU law in connection with withdrawal and ensure compliance with the UK's international obligations. Changes to the Scotland Act 1998 or the Government of Wales Act 2006 can be done by existing powers in those Acts with the approval of the Scottish Parliament or the Welsh Assembly, or by a UK Bill with the legislative consent of the Scottish Parliament or Welsh Assembly.***

#### **Clause 9**

- 3 In clause 9, page 7, line 8, at end insert—  
<() The consent of the Scottish Ministers is required before any provision is made in regulations under this section that modifies the Scotland Act 1998.  
( ) The consent of the Welsh Ministers is required before any provision is made in regulations under this section that modifies the Government of Wales Act 2006.>

#### ***Explanatory statement***

***Amendment 3 prevents UK Government regulations which implement any withdrawal agreement between the UK and the EU changing the devolution settlements for Scotland and Wales without the consent of the Scottish or Welsh Government.***

***As unforeseen changes may arise from the detail of a withdrawal agreement, this amendment allows changes to the Scotland Act 1998 or the Government of Wales Act 2006 by UK Government regulations with the approval of the Scottish Parliament or the Welsh Assembly.***

UK GOVERNMENT FIXING ETC. POWERS: REQUIREMENT FOR CONSENT OF  
SCOTTISH MINISTERS OR WELSH MINISTERS IF MAKING PROVISION WITHIN  
DEVOLVED COMPETENCE

**Clause 7**

4 In clause 7, page 6, line 25, at end insert—

- <() The consent of the Scottish Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Scottish Ministers within the meaning given in paragraph 9 of Schedule 2.
- () The consent of the Welsh Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Welsh Ministers within the meaning given in paragraph 10 of Schedule 2.>

***Explanatory statement***

***Clause 7 confers power on UK ministers to make regulations to deal with deficiencies in connection with withdrawal. As drafted it would enable UK Ministers to make regulations that deal with matters within the competence of devolved authorities in Scotland and Wales.***

***Amendment 4 ensures that the consent of the Scottish Ministers or Welsh Ministers is required before any such provision is made.***

**Clause 8**

5 In clause 8, page 6, line 40, at end insert—

- <() The consent of the Scottish Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Scottish Ministers within the meaning given in paragraph 18 of Schedule 2.
- () The consent of the Welsh Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Welsh Ministers within the meaning given in paragraph 19 of Schedule 2.>

***Explanatory statement***

***Clause 8 confers power on UK Ministers to make regulations to ensure compliance with the UK's international obligations arising from withdrawal. As drafted it would enable UK Ministers to make regulations that deal with matters within the competence of devolved authorities in Scotland and Wales.***

***Amendment 5 ensures that the consent of the Scottish Ministers or Welsh Ministers is required before any such provision is made.***

## Clause 9

6 In clause 9, page 7, line 9, at end insert—

- <() The consent of the Scottish Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Scottish Ministers within the meaning given in paragraph 18 of Schedule 2.
- () The consent of the Welsh Ministers is required before any provision is made in regulations under this section so far as the provision would be within the devolved competence of the Welsh Ministers within the meaning given in paragraph 19 of Schedule 2.>

### *Explanatory statement*

*Clause 9 confers power on UK Ministers to make regulations to implement any withdrawal agreement between the UK and the EU. As drafted it would enable UK Ministers to make regulations that deal with matters within the competence of devolved authorities in Scotland and Wales.*

*Amendment 6 ensures that the consent of the Scottish Ministers or Welsh Ministers is required before any such provision is made.*

LEGISLATIVE AND EXECUTIVE COMPETENCE: REMOVAL OF “RETAINED EU LAW”  
RESTRICTION / UK FRAMEWORKS PROVISION

**Clause 11**

7 In clause 11, page 7, line 16, leave out subsections (1) and (2) and insert—

- <(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for Scottish Parliament to legislate incompatibly with EU law), omit “or with EU law”.
- (2) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for National Assembly for Wales to legislate incompatibly with EU law), omit “or with EU law”.>

***Explanatory statement***

***To remove the changes the Bill makes to the competence of the Scottish Parliament and Welsh Assembly which stop matters devolving which are currently dealt with at EU level.***

***To amend the Scotland Act 1998 and the Government of Wales Act 2006 to remove the restriction that currently requires the Scottish Parliament and the Welsh Assembly to legislate in a way that is compatible with EU law. This restriction is unlikely to make sense if the UK ceases to be a member of the EU. The Scottish Parliament and the Welsh Assembly will still be able to legislate in a way that is compatible with EU law where that is considered appropriate.***

**Schedule 3**

8 In schedule 3, page 25, line 37, leave out paragraphs 1 and 2 and insert—

<Scotland Act 1998

- 1 In section 57(2) of the Scotland Act 1998 (no power for members of the Scottish Government to make subordinate legislation, or otherwise act, incompatibly with EU law or Convention rights), omit “or with EU law”.

Government of Wales Act 2006

- 2 In the Government of Wales Act 2006, omit section 80 (EU law).>

***Explanatory statement***

***To remove the changes the Bill makes to the competence of the Scottish and Welsh Ministers which stop matters devolving which are currently dealt with at EU level.***

***To amend the Scotland Act 1998 and the Government of Wales Act 2006 to remove restrictions that currently requires the Scottish and Welsh Ministers to act in a way that is compatible with EU law. These restrictions are unlikely to make sense if the UK ceases to be a member of the EU. The Scottish and Welsh Ministers will still be able to act compatibly with EU law where appropriate.***

SCOTTISH MINISTERS AND WELSH MINISTERS FIXING ETC. POWERS: REMOVAL  
OF RESTRICTIONS AND CONSENT REQUIREMENT

**Schedule 2**

**9** In schedule 2, page 16, line 30, at end insert—

<() Sub-paragraph (4)(b) does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

***Explanatory statement***

***To allow Scottish and Welsh Government regulations dealing with deficiencies in connection with withdrawal in devolved areas to confer power to legislate. This brings them into line with UK Ministers' powers in clause 7 of the Bill.***

**10** In schedule 2, page 17, line 9, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

**11** In schedule 2, page 17, line 13, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

***Explanatory statement***

***Amendments 10 and 11 give the Scottish and Welsh Ministers the power by regulations to amend direct EU legislation that forms part of domestic law on and after exit day in devolved areas. This applies to their regulation-making powers to deal with deficiencies in connection with withdrawal. This brings them into line with UK Ministers' powers in clause 7. The Bill currently only gives Scottish and Welsh Ministers power to make regulations in relation to EU-derived legislation that is saved into domestic law by clause 2.***

12 In schedule 2, page 17, line 20, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.

*Requirement for consultation in certain circumstances*

5A No regulations may be made under this Part by the Scottish Ministers or the Welsh Ministers acting alone so far as the regulations—

(a) are to come into effect before exit day, or

(b) remove (whether wholly or partly) reciprocal arrangements of the kind mentioned in section 7(2)(c) or (e),

unless the regulations are, to that extent, made after consulting with a Minister of the Crown.>

*Explanatory statement*

***The Bill currently requires UK Government consent to Scottish and Welsh Government regulations to deal with deficiencies in connection with withdrawal if the regulations come into force before exit day or remove reciprocal arrangements with the EU or EU State authorities. This amendment replaces the requirement for consent with a requirement for consultation.***

13 In schedule 2, page 22, line 10, at end insert—

<() Sub-paragraph (4)(d) does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

*Explanatory statement*

***To allow Scottish and Welsh Government regulations ensuring compliance with the UK's international obligations in devolved areas to confer power to legislate. This brings them into line with UK Ministers' powers in clause 8 of the Bill.***

14 In schedule 2, page 22, line 32, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

*Explanatory statement*

***To give the Scottish and Welsh Ministers power by regulations to amend direct EU legislation that forms part of domestic law on and after exit day in devolved areas. This applies to their regulation-making powers to ensure compliance with the UK's international obligations. This brings them into line with UK Ministers' powers in clause 8. The Bill currently only gives Scottish and Welsh Ministers power to make regulations in relation to EU-derived legislation that is saved into domestic law by clause 2.***

15 In schedule 2, page 23, line 11, at end insert—

- <( ) This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.

*Requirement for consultation in certain circumstances*

16A (1) No regulations may be made under this Part by the Scottish Ministers or the Welsh Ministers acting alone so far as the regulations—

- (a) are to come into force before exit day,
- (b) are for the purpose of preventing or remedying any breach of the WTO Agreement, or
- (c) make provision about any quota arrangements or are incompatible with any such arrangements,

unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(2) In sub-paragraph (1)—

“the WTO Agreement” has the meaning given in paragraph 16(2),

“quota arrangements” has the meaning given in paragraph 16(3).>

*Explanatory statement*

*The Bill currently requires UK Government consent to Scottish and Welsh Government regulations ensuring compliance with the UK’s international obligations if the regulations come into force before exit day, or are to prevent or remedy a breach of the World Trade Organisation (WTO) Agreement or are about or incompatible with quota arrangements. “Quota arrangements” are defined to include division of responsibility within the UK or an area wider than the UK for international obligations (or benefits arising therefrom) to achieve a result by reference to a quantity or benefit.*

*Amendment 15 replaces the requirement for consent with a requirement for consultation.*

16 In schedule 2, page 24, line 33, at end insert—

- <( ) Sub-paragraph (4)(d) does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

*Explanatory statement*

*To allow Scottish and Welsh Government regulations implementing any withdrawal agreement between the UK and the EU in devolved areas to confer a power to legislate. This brings them into line with UK Ministers’ powers in clause 9 of the Bill.*

17 In schedule 2, page 25, line 11, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

18 In schedule 2, page 25, line 15, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.>

***Explanatory statement***

***Amendments 17 and 18 give the Scottish and Welsh Ministers power by regulations to amend direct EU legislation that forms part of domestic law on and after exit day in devolved areas. This applies to their regulation-making powers to implement any withdrawal agreement between the UK and the EU. This brings them into line with UK Ministers’ powers in clause 9. The Bill currently only gives Scottish and Welsh Ministers power to make regulations in relation to EU-derived legislation that is saved into domestic law by clause 2.***

19 In schedule 2, page 25, line 28, at end insert—

<() This paragraph does not apply to regulations made under this Part by the Scottish Ministers or the Welsh Ministers.

***Requirement for consultation in certain circumstances***

25A (1) No regulations may be made under this Part by the Scottish Ministers or the Welsh Ministers acting alone so far as the regulations make provision about any quota arrangements or are incompatible with any such arrangements unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(2) In sub-paragraph (1), “quota arrangements” has the meaning given in paragraph 25(2).>

***Explanatory statement***

***The Bill currently requires UK Government consent to Scottish and Welsh Government regulations implementing any withdrawal agreement between the UK and the EU if the regulations are about or incompatible with quota arrangements. “Quota arrangements” are defined to include division of responsibility within the UK or an area wider than the UK for international obligations (or benefits arising therefrom) to achieve a result by reference to a quantity or benefit.***

***Amendment 19 replaces the requirement for consent with a requirement for consultation.***



## CONSEQUENTIAL AMENDMENTS

### Schedule 2

- 20 In schedule 2, page 19, line 47, leave out <and retained EU law>
- 21 In schedule 2, page 20, line 23, leave out <and retained EU law>
- 22 In schedule 2, page 23, line 21, leave out <and retained EU law>
- 23 In schedule 2, page 23, line 25, leave out <and section 57(4) and (5) of that Act>
- 24 In schedule 2, page 23, line 31, leave out <and retained EU law>
- 25 In schedule 2, page 23, line 35, leave out <80(8)> and insert <80>

#### *Explanatory statement*

*Amendments 20 to 25 are in consequence of Amendments 7 and 8 removing the restriction on competence added by the Bill to allow the Scottish Parliament and Welsh Assembly to change retained EU law in devolved areas, and the corresponding restriction on the Scottish and Welsh Governments. They adjust the restrictions on devolved competence of Scottish and Welsh Government regulations dealing with deficiencies in connection with withdrawal, ensuring compliance with the UK's international obligations and implementing any withdrawal agreement between the UK and the EU.*

### Schedule 3

- 26 In schedule 3, page 28, line 2, leave out from <, and> to end of line 3
- 27 In schedule 3, page 28, line 38, leave out from <for> to end of line 39 and insert <omit “or with EU law”>
- 28 In schedule 3, page 29, line 5, leave out paragraph 21
- 29 In schedule 3, page 29, line 28, leave out from <(4)(d)> to end of line 29 and insert <(4), omit paragraph (d).>
- 30 In schedule 3, page 30, line 4, leave out <before “EU” insert “Retained”> and insert <for “EU law, human” substitute “Human”>
- 31 In schedule 3, page 30, line 5, leave out paragraph 31

#### *Explanatory statement*

*Amendments 26 to 31 amend schedule 3 of the Bill which makes further amendments to the Scotland Act 1998 and the Government of Wales Act 2006. The amendments are in consequence of Amendments 7 and 8 removing the competence restriction which the Bill would impose on the Scottish Parliament, the Welsh Assembly and the Scottish and Welsh Governments. The amendments update headings in the 1998 and 2006 Acts, the definition of “devolution issues” in the 1998 Act, and remove redundant consequential amendments and Order in Council procedure.*

## Schedule 8

- 32 In schedule 8, page 50, line 19, leave out <section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or>
- 33 In schedule 8, page 51, line 1, leave out <section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or>

### *Explanatory statement*

*Amendments 32 and 33 remove general consequential provision about existing and future powers to make subordinate legislation in consequence of removal of the restriction on the competence of the Scottish and Welsh Governments by Amendment 8.*

- 34 In schedule 8, page 55, leave out lines 8 to 13 and insert—
- <(a) in paragraph (a), omit sub-paragraph (ii), and
  - (b) in paragraph (b), omit “or with EU law”.>

### *Explanatory statement*

*Amendment to the Criminal Procedure (Scotland) Act 1995 on the right of the Advocate General to take part in proceedings in consequence of the removal by Amendments 7 and 8 of the competence restriction which the Bill would impose on the Scottish Parliament, the Welsh Assembly and the Scottish and Welsh Governments.*

- 35 In schedule 8, page 59, leave out lines 10 to 16
- 36 In schedule 8, page 59, leave out lines 23 to 29
- 37 In schedule 8, page 59, line 47, leave out from beginning to end of line 8 on page 60
- 38 In schedule 8, page 60, leave out lines 13 to 23

### *Explanatory statement*

*Amendments 35 to 38 are in consequence of the removal by Amendments 7 and 8 of Order in Council-making powers to adjust the competence restrictions which the Bill would impose on the Scottish Parliament, the Welsh Assembly and the Scottish and Welsh Governments.*