

# Scotland Bill

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[AS AMENDED IN COMMITTEE]

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**B I L L**

[\[AS AMENDED IN COMMITTEE\]](#)

TO

Amend the Scotland Act 1998 and make provision about the functions of the Scottish Ministers; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

CONSTITUTIONAL ARRANGEMENTS

*The Scottish Parliament and the Scottish Government*

**1 The Scottish Parliament and the Scottish Government**

- (1) In section 1 of the Scotland Act 1998 (the Scottish Parliament) after subsection (1) insert— 5
- “(1A) A Scottish Parliament is recognised as a permanent part of the United Kingdom’s constitutional arrangements.”
- (2) In section 44 of the Scotland Act 1998 (the Scottish Government) for the words in subsection (1) before paragraph (a) substitute— 10
- “(1) There shall be a Scottish Government.
- (1A) A Scottish Government is recognised as a permanent part of the United Kingdom’s constitutional arrangements.
- (1B) The members of the Scottish Government shall be—”.

*The Sewel convention***2 The Sewel convention**

In section 28 of the Scotland Act 1998 (Acts of the Scottish Parliament) at the end add –

- “(8) But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament.” 5

*Elections etc***3 Elections**

- (1) Section B3 of Part 2 of Schedule 5 to the Scotland Act 1998 (elections) is amended as follows. 10

- (2) Under the heading “B3 Elections” insert –

“(A) *Elections for membership of the House of Commons and the European Parliament*”.

- (3) For “, the European Parliament and the Parliament” substitute “and the European Parliament”. 15

- (4) Omit “The franchise at local government elections.”

- (5) At the end insert –

“(B) *Elections for membership of the Parliament and local government elections in Scotland*” 20

The subject-matter of sections 2(2A) and (2B) and 12A of this Act.

The combination of –

- (a) polls at elections or referendums that are outside the legislative competence of the Parliament with polls at – 25
- (i) elections for membership of the Parliament, or
  - (ii) local government elections in Scotland, and
- (b) polls at ordinary general elections for membership of the Parliament with polls at ordinary local government elections in Scotland.

The timing of ordinary local government elections in Scotland where the poll at such an election would otherwise be held on the same day as the poll at an ordinary general election ~~to~~ for membership of the Parliament. 30

~~The digital service for the purposes of applications for registration or for verifying information contained in such applications in relation to elections in Scotland.~~ 35

Any digital service provided by a Minister of the Crown for the registration of electors.

The subject matter of – 40

- (a) ~~The subject matter of~~ Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) in relation to ~~polls at elections that are an election~~ within the legislative competence of the ~~Parliament~~ Parliament, where ~~they are the poll at the election is~~ combined with ~~polls—the poll~~ at ~~elections—an election~~ for membership of the House of Commons ~~and or~~ the European Parliament, ~~and~~
- (b) sections 145 to 148 and 150 to 154 of that Act (enforcement) as they apply for the purposes of Part 5 or 6, so far as the subject-matter of that Part is reserved by paragraph (a).

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The subject matter of—

- (a) sections 155 and 156 of the Political Parties, Elections and Referendums Act 2000, except in relation to Parts 5 and 6 of that Act so far as those Parts relate to elections for membership of the Parliament, and
- (b) sections 145 to 148 and 150 to 154 of that Act ~~to the extent that~~ as they apply in relation to a provision for the purposes of section 155 or 156, so far as the subject-matter of ~~which that~~ section is reserved by paragraph (a).

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The subject-matter of the following sections of the Political Parties, Elections and Referendums Act 2000 in relation to elections for membership of the Parliament—

- (a) section 1 (except in relation to any requirement for the Electoral Commission to prepare, lay and publish reports about the performance of its functions),
- (b) sections 2 to 4, 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs),
- (c) ~~sections 12, 14 to 71Y, and 101 to 142,~~
- (d) sections 12, 21 to 33, 35 to 37, 39 to 57, 58 to 67, 69, 71, 71F, 71G, 71H to 71Y and 140A,
- (e) section 149 (except in relation to the register kept under section 89),
- (f) sections 157 and 159 to 163,

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and sections 145 to 148 and 150 to 154 ~~to the extent that~~ as they apply in relation to for the purposes of a provision ~~of that Act the subject matter of which is reserved by~~ mentioned in paragraphs (a) to (e), ~~so far as the subject matter of that provision is reserved by those paragraphs.~~

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*Interpretation*

~~“Digital service” has the meaning given by regulation 3(1) of the Representation of the People (Scotland) Regulations 2001 as at the day on which the Scotland Act 2015 received Royal Assent.~~

~~“Elections in Scotland” means—~~

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- (a) ~~elections for membership of the Parliament, and~~
- (b) ~~local government elections in Scotland.~~

Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of the Political Parties, Elections and Referendums Act 2000; and references to the subject-matter of that Act are to be read as at the day on which the Scotland Act 2015 received Royal Assent.”

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**4 Power to make provision about elections**

- (1) For sections 12 and 12A of the Scotland Act 1998 (power of Scottish Ministers and Secretary of State to make provision about elections) substitute –

**“12 Power of the Scottish Ministers to make provision about elections** 5

- (1) The Scottish Ministers may by order make provision as to –
- (a) the conduct of elections for membership of the Parliament,
  - (b) the questioning of such an election and the consequences of irregularities, and
  - (c) the return of members of the Parliament otherwise than at an election. 10
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision – 15
- (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of the election expenses of candidates,
  - (d) for the combination of polls but only where –
    - (i) the poll at an ordinary general election for membership of the Parliament and the poll at a local government election in Scotland to fill a casual vacancy are to be held on the same date, 20
    - (ii) the poll at a by-election for membership of the Parliament and the poll at an ordinary local government election in Scotland are to be held on the same date, 25
    - (iii) the poll at a by-election for membership of the Parliament and the poll at a local government election in Scotland to fill a casual vacancy are to be held on the same date, 30
    - (iv) the poll at an extraordinary general election for membership of the Parliament and the poll at an ordinary local government election in Scotland are to be held on the same date, or
    - (v) the poll at an extraordinary general election for membership of the Parliament and the poll at a local government election in Scotland to fill a casual vacancy are to be held on the same date, 35
  - (e) for modifying the application of section 7(1) where the poll at an election for the return of a constituency member is abandoned (or notice of it is countermanded), and 40
  - (f) for modifying section 8(7) to ensure the allocation of the correct number of seats for the region.
- (3) The provision that may be made under subsection (1)(c) includes, in particular, provision modifying section 10(4) to (5A). 45
- (4) The provision that may be made under subsection (2)(a) does not include provision about the use of ~~the any~~ digital service provided by a Minister of the Crown for the ~~applications for~~ registration ~~or for verifying information contained in applications for registration of~~ electors.

- (5) An order under subsection (1) may –
- (a) apply, with or without modifications or exceptions, any provision made by or under the Representation of the People Acts or the European Parliamentary Elections Act 2002 or by any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections, and 5
  - (b) so far as may be necessary in consequence of any provision made by an order under subsection (1), modify any provision made by any enactment relating to the registration of ~~Parliamentary~~ parliamentary electors or local government electors. 10
- (6) The return of a member of the Parliament at an election may be questioned only under Part 3 of the Representation of the People Act 1983 as applied by an order under subsection (1). 15
- (7) For the purposes of this Act, the regional returning officer for any region is the person designated as such in accordance with an order made by the Scottish Ministers under this subsection. 15
- (8) ~~“Digital service” has the meaning given by regulation 3(1) of the Representation of the People (Scotland) Regulations 2001 as at the day on which the Scotland Act 2015 received Royal Assent.~~ 20

#### 12A Power of the Secretary of State to make provision about the combination of polls

- (1) The Secretary of State may by regulations make provision for –
- (a) the combination of polls at ordinary general elections for membership of the Parliament with polls at the elections listed in subsection (2), and 25
  - (b) the combination of polls at extraordinary general elections for membership of the Parliament, and by-elections for membership of the Parliament, with polls at the elections listed in subsections (2) and (3). 30
- (2) The elections are –
- (a) early parliamentary general elections,
  - (b) parliamentary by-elections, and
  - (c) European parliamentary by-elections. 35
- (3) The elections are –
- (a) parliamentary general elections, and
  - (b) European parliamentary general elections.
- (4) The Secretary of State may not make regulations under this section without the agreement of the Scottish Ministers.
- (5) Regulations under subsection (1) may – 40
- (a) apply, with or without modifications or exceptions, any provision made by or under the Representation of the People Acts or the European Parliamentary Elections Act 2002 or by any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections, and



- (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for membership of the Parliament.”
- (2) In section 15 of the Representation of the People Act 1985 (combination of polls) after subsection (5B) insert – 5
- “(5C) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Scotland, the Secretary of State must consult the Scottish Ministers.” 10

## 5 Timing of elections

- (1) Section 2 of the Scotland Act 1998 (ordinary general elections) is amended as follows.
- (2) In subsection (2) from the words “the day” to the end substitute – 15
- (a) subsection (2A) prevents the poll being held on that day, or
- (b) the day of the poll is determined by [a proclamation](#) under subsection (5).”
- (3) After subsection (2) insert –
- “(2A) The poll shall not be held on the same date ~~as, or within two months before, as~~ [the date of the poll](#) at –
- (a) a parliamentary general election (other than an early parliamentary general election), or
- (b) a European parliamentary general election. 20
- (2B) Where subsection (2A) prevents the poll being held on the day specified in subsection (2), the poll shall be held on such day, subject to subsection (2A), as the Scottish Ministers may by order specify.”
- (4) In subsection (3) after “May” insert “, or on the day specified [by](#) an order under subsection (2B)”. 25
- (5) In subsection (5) at the beginning insert “Subject to subsection (2A),”.
- (6) ~~In paragraph 1 of Schedule 7 (procedure for subordinate legislation) –~~
- (a) ~~in the first column below the entry for section 2(1) insert “section 2(2B)”, and~~
- (b) ~~in the second column below the first “Type C” insert “Type L”.~~ 30
- (7) [In paragraph 1\(2\) of Schedule 7 \(procedure for subordinate legislation\) in the appropriate place insert –](#)

“Section 2(2B) | Type L”

- (8) Section 43 of the Representation of the People Act 1983 (day of ordinary local elections in Scotland, and other timing provisions) is amended as follows. 35
- (9) At the beginning of subsection (1) insert “Subject to subsection (1ZA),”.

- (10) After subsection (1) insert –
- “(1ZA) The poll shall not be held on the date specified by subsection (1) where that date is the same date as the poll at an ordinary general election for membership of the Scottish Parliament.
  - (1ZB) Subsection (1ZA) does not apply to elections to fill a casual vacancy. 5
  - (1ZC) The Scottish Ministers may by order specify an alternative date for the poll at an ordinary local election where the date of the poll would, by virtue of subsection (1), be the same date as the poll at an ordinary general election for membership of the Scottish Parliament.
  - (1ZD) An order made under subsection (1ZC) is subject to the affirmative procedure.” 10

## 6 Electoral registration: the digital service

- (1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 53 (power to make regulations about registration etc.) after subsection (8) insert – 15
- “(9) ~~The power to make regulations under subsections (1) and (3) containing provision relating to the use of the digital service in relation to Scotland is exercisable by the Scottish Ministers concurrently with the Secretary of State.~~ 20
  - (10) ~~In subsection (9) –~~
    - (a) ~~“digital service” has the meaning given by regulation 3(1) of the Representation of the People (Scotland) Regulations 2001 as at the day on which the Scotland Act 2015 received Royal Assent, and~~ 25
    - (b) ~~“use of the digital service” means use of that service for applications for registration or for verifying information contained in applications for registration in relation to –~~
  - “(9) The power to make regulations under subsections (1) and (3) is exercisable by the Scottish Ministers concurrently with the Secretary of State for the purposes of making provision about the use, in relation to elections in Scotland, of any digital service provided by a Minister of the Crown for the registration of electors. 30
  - (10) In subsection (9) “elections in Scotland” means –
    - (a) elections for membership of the Scottish Parliament, ~~and~~ or
    - (b) local government elections in Scotland.
  - (11) Regulations made by the Scottish Ministers by virtue of subsection (9) may not be made without the agreement of the Secretary of State. 35
  - (12) ~~Subject to subsection (14), regulations~~ Regulations made by the Scottish Ministers by virtue of subsection (9) are subject to the negative procedure.
  - (13) For the purposes of the power to make regulations by virtue of subsection (9) the following provisions have effect as if the references to the Secretary of State were references to the Scottish Ministers – 40
    - (a) subsections (5) to (7) of this section,

- (b) section 201(3)~~),~~ and  
(c) paragraphs 1A(3)(b) and (d) of Schedule 2.”
- (3) At the end of section 10ZC (registration of electors in Great Britain) insert—
- “(4) Subject to regulations under this section, a person may not use ~~the a~~ digital service provided by a Minister of the Crown for the registration of electors to make an application for registration for the purposes of an election in Scotland unless at the time of the application the person meets the requirements that applied at the commencement of section 6 of the Scotland Act 2015 for entitlement to be registered for the purposes of such an election. 5
- (5) The power to make regulations about who may use the digital service in relation to elections in Scotland is exercisable by the Scottish Ministers concurrently with the Secretary of State. 10
- (6) Regulations made by the Scottish Ministers under subsection (5) may not be made without the agreement of the Secretary of State. 15
- (7) Regulations made by the Scottish Ministers under subsection (5) are subject to the negative procedure.
- (8) ~~In this section “digital service” has the meaning given by regulation 3(1) of the Representation of the People (Scotland) Regulations 2001 as at the day on which the Scotland Act 2015 received Royal Assent.~~ 20
- (9) In this section “election in Scotland” means —
- (a) an election for membership of the Scottish Parliament, ~~and~~ or  
(b) a local government election in Scotland.” 25
- 7 Expenditure in connection with elections**
- (1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.
- (2) After section 72 (campaign expenditure) insert— 30
- “72A Campaign expenditure: power of Scottish Ministers**
- (1) The powers under the following provisions of Schedule 8 are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament— 35
- (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),  
(b) paragraph 3(7) (power to appoint day when code comes into force), and  
(c) paragraph 4(1) (power to amend Part 1 of Schedule 8). 40
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8 apply —
- (a) as if any reference to the Secretary of State were a reference to the Scottish Ministers,  
(b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were a reference to the Scottish Parliament, 45

- (c) as if in paragraph 3(9) for the words from “means –” to the end there were substituted “means the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament.”
- (3) Subsection (1) does not apply where any other poll is combined with the poll at an election for membership of the Scottish Parliament.” 5
- (3) After section 85 (controlled expenditure of third parties) insert –
- “85A Controlled expenditure of third parties: power of Scottish Ministers**
- (1) The powers under the following provisions of Schedule 8A are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament – 10
- (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
- (b) paragraph 3(7) (power to appoint day when code comes into force), and 15
- (c) paragraph 4(1) (power to amend Part 1 of Schedule 8A).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8A apply – 20
- (a) as if any reference to the Secretary of State were a reference to the Scottish Ministers,
- (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were a reference to the Scottish Parliament,
- (c) as if in paragraph 3(9) for the words from “means –” to the end there were substituted “means the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament.” 25
- (3) Subsection (1) does not apply where any poll is combined with the polls at elections for membership of the Scottish Parliament.” 30
- (4) After section 95 (control of donations to recognised third parties) insert –
- “95ZA Control of donation to recognised third parties: power of Scottish Ministers**
- (1) The powers under the following provisions of Schedule 11 are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament – 35
- (a) paragraph 3(4) (power to change meaning of defined expenses and sponsorship),
- (b) paragraph 6A(6) (power to make regulations about how the value of a benefit is calculated), and 40
- (c) paragraph 6B(4) (power to make regulations about the retention of declarations).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3, 6A and 6B of Schedule 11

- apply as if any reference to the Secretary of State was a reference to the Scottish Ministers.
- (3) Subsection (1) does not apply where any other poll is combined with the poll at an election for membership of the Scottish Parliament.” 5
- (5) Section 95ZA inserted by subsection (4) has effect –
- (a) until the coming into force of paragraph 1(2) of Schedule 3 to the Political Parties and Elections Act 2009, with the omission of subsection (1)(b) and “6A” in subsection (2);
- (b) until the coming into force of paragraph 4(2) of Schedule 4 to that Act, with the omission of subsection (1)(c) and “and 6B” in subsection (2). 10
- (6) Section 155 (power to vary specified sums or percentages) is amended as follows.
- (7) In subsection (1) at the beginning insert “Except where subsection (1A) applies,”.
- (8) After subsection (1) insert – 15
- “(1A) The Scottish Ministers may by order vary any sum for the time being specified in Part 5 or 6 so far as that sum applies in relation to an election the conduct of which is within the legislative competence of the Scottish Parliament.”
- (9) In subsection (2) – 20
- (a) for the words before paragraph (a) substitute “An order under subsection (1) or (1A) may be made either –”, and
- (b) in paragraph (a) for “he” substitute “the person making the order”.
- (10) After subsection (4) insert –
- “(4A) Subsection (4B) applies in relation to the sums specified in Schedule 11. 25
- (4B) In each session of the Scottish Parliament, other than a session that is dissolved less than two years after the date of its first sitting, the Scottish Ministers must either –
- (a) make an order in pursuance of subsection (2)(a), or
- (b) lay before the Scottish Parliament a statement setting out the Scottish Ministers’ reasons for not doing so.” 30
- (11) Section 156 (orders and regulations) is amended as follows.
- (12) After subsection (4A) insert –
- “(4B) Subject to subsections (4C) and (4D), any order or regulations made under this Act by the Scottish Ministers shall be subject to the negative procedure ~~in~~ [\(see section 28 of the Scottish Parliament Interpretation and Legislative Reform \(Scotland\) Act 2010\)](#). 35
- (4C) Subsection (4B) does not apply to an order falling within subsection (3).
- (4D) Subsection (4B) does not apply to an order falling within subsection (4), and any such order made by the Scottish Ministers shall be subject to the affirmative procedure ~~in~~ [\(see section 29 of the Scottish Parliament Interpretation and Legislative Reform \(Scotland\) Act 2010\)](#).” 40

- (13) In subsection (5) after each “Secretary of State” insert “or the Scottish Ministers”.
- (14) In the Interpretation and Legislative Reform (Scotland) Act 2010, in section 30(4) (other instruments laid before the Parliament: exceptions) after paragraph (f) insert –
- “(fa) section 155(2)(a) of the Political Parties, Elections and Referendums Act 2000 (c.41),”.

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## 8 Review of electoral boundaries by the Local Government Boundary Commission for Scotland

- (1) Schedule 1 to the Scotland Act 1998 is amended as follows.
- (2) In paragraphs 3, 4, 7 to 10, 12 and 14 “the Boundary Commission for Scotland” in each place substitute “the Local Government Boundary Commission for Scotland”.
- (3) In paragraphs 3 to 7 for “the Secretary of State” in each place, and for “he” in paragraphs 3(9) and 6(1), substitute “the Scottish Ministers”.
- (4) In paragraphs 3 to 7 for –
- (a) “each House of Parliament”, “either House of Parliament” or “the House” in each place, and
- (b) “Parliament” in all other places, except in paragraph 6(7), substitute “the Parliament”.
- (5) In paragraph 3(4) –
- (a) before “under this paragraph” insert “to the Scottish Ministers”;
- (b) for “not later than 30 June 2010” substitute “no earlier than 1 May 2018 and no later than 1 May 2022”.
- (6) In paragraph 3(6) omit “(but not before the submission of their first report)”.
- (7) Omit paragraph 3(11).
- (8) In paragraph 6(1) for “thinks” substitute “think”.

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## 9 Minor and consequential amendments: elections etc

- (1) This section makes minor and consequential amendments in relation to elections and related matters.
- (2) The Scotland Act 1998 is amended as follows.
- (3) [Omit sections 92\(4A\), 104\(3\) and 112\(6\) and paragraph 11\(4\) of Schedule 4 \(functions under section 15 to be regarded as exercisable within devolved competence\).](#)
- (4) In Schedule 4, omit paragraph 4(2A) and (2B) (voting age).
- (5) In Part 1 of Schedule 5, omit paragraph 5A (referendums).
- (6) In the Scotland Act 2012, omit sections ~~1~~[1](#), ~~2~~[2](#) and ~~213~~[213](#).
- (7) In the Scottish Parliament (Elections etc.) Order 2010, omit article 13.
- (8) The Scotland Act 1998 (Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers) Order 2015 (S.I. 2015/692) is revoked.

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*Legislation by the Parliament***10 Super-majority requirement for certain legislation**

- (1) The Scotland Act 1998 is amended as follows.
- (2) Section 31 (scrutiny of Bills before introduction) is amended as follows. 5
- (3) In the heading for “before introduction” substitute “for legislative competence and protected subject-matter”.
- (4) After subsection (2) insert –
- “(2A) The Presiding Officer shall, after the last time when a Bill may be amended but before the decision whether to pass or reject it, decide whether or not in his view the provisions of the Bill relate to a protected subject-matter and state his decision.” 10
- (5) At the end insert – 15
- “(4) For the purposes of this Part a provision of a Bill relates to a protected subject-matter if it would modify, or confer power to modify, any of the matters listed in subsection (5) (but not if the provision is incidental to or consequential on another provision of the Bill).
- (5) The matters are – 20
- (a) the persons entitled to vote as electors at an election for membership of the Parliament,
- (b) the system by which members of the Parliament are returned,
- (c) the number of constituencies, regions or any equivalent electoral area, and
- (d) the number of members to be returned for each constituency, region or equivalent electoral area.” 25
- (6) After that section insert –
- “31A Two-thirds majority for Bills relating to a protected subject matter**
- If the Presiding Officer states under section 31(2A) that in his view the provisions of a Bill relate to a protected subject-matter, the Bill is not passed unless the number of members voting in favour of it at the final stage is at least two-thirds of the total number of seats for members of the Parliament.” 30
- (7) In section 32 (submission of Bills for Royal Assent) in subsection (2)(a) after “under section” insert “32A or”. 35
- (8) After that section insert –
- “32A Scrutiny of Bills by the Supreme Court (protected subject-matter)**
- (1) The Advocate General, the Lord Advocate or the Attorney General may refer the question of whether a Bill or any provision of a Bill relates to a protected subject-matter to the Supreme Court for decision. 40
- (2) Subject to subsection (3), he may make a reference in relation to a Bill –
- (a) at any time during the period of four weeks beginning with the rejection of the Bill, if the Presiding Officer has made a 45



- statement under section 31(2A) that in his view the provisions of the Bill relate to a protected subject-matter, and
- (b) at any time during the period of four weeks beginning with the passing of the Bill, if the Presiding Officer has made a statement under section 31(2A) that in his view the provisions of the Bill do not relate to a protected subject-matter. 5
- (3) He shall not make a reference in relation to a Bill if he has notified the Presiding Officer that he does not intend to make a reference in relation to the Bill, unless the Bill has since the notification been approved in accordance with standing orders made by virtue of section 36(4)(aa) or (4A).” 10
- (9) In the heading to section 33 after “Supreme Court” insert “(legislative competence)”. 10
- (10) Section 36 (stages of Bills) is amended as follows.
- (11) In subsection (4) after paragraph (a) insert— 15
- “(aa) where section 32A(2)(b) applies, the Supreme Court decides that the Bill or any provision of the Bill relates to a protected subject-matter, or that the Bill or any provision of the Bill does not relate to a protected subject-matter.”
- (12) After that subsection insert— 20
- “(4A) Standing orders shall provide for an opportunity for the reconsideration of a Bill after its rejection if (and only if), where section 32A(2)(a) applies, the Supreme Court decides that the Bill or any provision of the Bill does not relate to a protected subject-matter.”
- (13) In subsections (5) and (6) after “reconsideration” insert “in accordance with standing orders made by virtue of subsection (4)(a), (b) or (c)”. 25
- (14) After those subsections insert—
- “(7) Standing orders shall, in particular, ensure that any Bill reconsidered in accordance with standing orders made by virtue of subsection (4)(aa) or (4A), is subject to a final stage at which it can be approved or rejected. 30
- (8) References in sections 28(2), 31(2A), 31A, 32A(2)(a) and (b) and 38(1)(a) and paragraph 7 of Schedule 3 to the passing of a Bill shall, in the case of a Bill which has been reconsidered in accordance with standing orders made by virtue of subsection (4)(aa) or (4A), be read as references to the approval of the Bill.” 35
- 11 Scope to modify the Scotland Act 1998**
- (1) The Scotland Act 1998 is amended as follows. 40
- (2) In paragraph 4 of Schedule 4 (protection of Scotland Act 1998 from modification) for sub-paragraph (2) substitute—
- “(2) This paragraph does not apply to modifying—
- (a) the following sections in Part 1 (the Scottish Parliament)— 45
- (i) section 1(2) to (5),
- (ii) section 2(1), (2) and (3) to (6),
- (iii) sections 3 to 11,



- (iv) section 12(1) to (3) and (5) to (7),
  - (v) sections 13 to 22,
  - (vi) sections 24 to 26,
  - (vii) section 27(1) and (2),
  - (viii) section 28(5),
  - (ix) section 36(1)(a) and (b), and (2) and (3), and
  - (x) sections 39 to 42,
  - (b) the following sections in Part 2 (the Scottish Administration) – 5
    - (i) section 44(1B)(a) and (b), and (2),
    - (ii) section 45(3) to (7),
    - (iii) section 46(1) to (3),
    - (iv) section 47(3)(b) to (e), 10
    - (v) section 48(2) to (4), ~~and~~
    - (vi) section 49(2) and (4)(b) to (e), and
    - (vii) section 50,
  - (c) in Part 3 (financial provisions), section 69(3),
  - (d) in Part 5 (miscellaneous and general), sections 81 to 83 and 85, sections 91, 93, 94 and 97, 15
  - (e) the following provisions in Part 6 (supplementary) –
    - (i) section 112(1) and (3) to (5), section 113 (except the application of subsection (9)), section 115 and Schedule 7 (so far as those sections and that Schedule apply to any power ~~in this Act of the Scottish Ministers exercisable within devolved competence~~ to make subordinate legislation), ~~and~~, 20
    - (ii) sections 118, 120 and 121, ~~and~~
    - (iii) section 124 (so far as that section applies to any power exercisable within devolved competence to make subordinate legislation),
  - (f) Schedule 1 (constituencies, regions and regional members),
  - (g) paragraphs 1, 2(1) and 3 to 6 of Schedule 2 (Scottish Parliamentary corporate body), and 25
  - (h) paragraphs 1 to 6 of Schedule 3 (standing orders - further provision).”
- (3) In paragraph 1 of Schedule 7 (procedure for subordinate legislation) in the entry for section 97 for “Type A” substitute “Type D”.

## PART 2

### TAX

#### *Income tax*

## 12 Power of Scottish Parliament to set rates of income tax

- (1) Section 80C of the Scotland Act 1998 (power to set a Scottish rate for Scottish taxpayers) is amended as follows.

- 
- (2) In subsection (1) (power to set Scottish rate) for the words from “the Scottish rate” to the end substitute “the Scottish basic rate, and any other rates, for the purposes of section 11A of the Income Tax Act 2007 (which provides for the income of Scottish taxpayers which is charged at those rates)”.
- (3) For subsection (2) substitute – 5  
“(2A) Where a Scottish rate resolution sets more than one rate it must also set limits or make other provision to enable it to be ascertained, for the purposes of that section, which rates apply in relation to a Scottish taxpayer.  
(2B) But a Scottish rate resolution may not provide for different rates to apply in relation to different types of income. 10  
(2C) In this Chapter a “Scottish rate” means a rate set by a Scottish rate resolution.”
- (4) Omit subsection (4).
- (5) In subsection (5) (Scottish rate to be a whole number or half a whole number) – 15  
(a) for “The” substitute “A”, and  
(b) at the end insert “, or zero”.
- (6) In the title for “rate” substitute “rates”.
- (7) Other provisions of Part 4A of the Scotland Act 1998 are amended as follows.
- (8) In section 80A(1)(a) (overview of Part 4A) after “rate” insert “or rates”.
- (9) Section 80G (supplemental powers to modify enactments) is amended as follows. 20
- (10) In subsection (1) (power to modify section 11A of the Income Tax Act 2007) –  
(a) in the words before paragraph (a) for “the Scottish basic, higher and additional” substitute “Scottish”, and  
(b) in paragraph (a) for “the rates provided for under the section” substitute “Scottish rates”. 25
- (11) In subsection (1A) (power to modify references to certain rates of income tax in relation to Scottish taxpayers) for the words after “enactment” substitute “so as to make any provision that they consider necessary or expedient in consequence of or in connection with –  
(a) the powers of the Parliament under section 80C;  
(b) a Scottish rate resolution”. 30
- (12) In subsection (1B) (power to postpone effect of Scottish rate etc in relation to PAYE regulations) for paragraphs (a) and (b) substitute –  
“(a) provision made by a Scottish rate resolution for a tax year,  
(b) the absence of particular provision in a Scottish rate resolution for a tax year, or  
(c) the absence of a Scottish rate resolution for a tax year,”. 35
- (13) In section 80HA(3)(b) (report by the Comptroller and Auditor General: meaning of “Scottish rate provisions”) for the words from “the Scottish basic rate” to the end substitute “a Scottish rate”.
- (14) This section comes into force on such day as the Treasury may by regulations appoint.

- (15) The amendments made by this section have effect in relation to the tax year appointed by the Treasury by regulations and subsequent tax years.
- (16) The tax year appointed under subsection (15) must begin on or after the day appointed under subsection (14).

5

### 13 Amendments of Income Tax Act 2007

- (1) The Income Tax Act 2007 is amended as follows.
- (2) Section 6 (rates at which income tax is charged) is amended as follows. 10
- (3) In subsection (3) omit paragraph (za).
- (4) After that subsection insert –
- “(4) See also section 80C of the Scotland Act 1998 which makes provision for the purposes of section 11A (income charged at Scottish rates).” 15
- (5) Omit section 6A (the Scottish basic, higher and additional rates).
- (6) In section 10(4) for “the Scottish basic, higher and additional” substitute “Scottish”.
- (7) Section 11A (income charged at the Scottish basic, higher and additional rates) is amended as follows. 20
- (8) For subsections (1) to (3) substitute –
- “(1A) Income tax is charged at Scottish rates on the non-savings income of a Scottish taxpayer.” 25
- (9) In subsection (6) for the words after “determining” substitute “which part of a Scottish taxpayer’s income consists of savings income”.
- (10) In the title for “the Scottish basic, higher and additional” substitute “Scottish”.
- (11) In section 13 (income charged at dividend rates) – 30
- (a) in subsection (1)(b) omit “or the Scottish basic rate,”,
- (b) in subsection (2)(b) omit “or the Scottish higher rate,”,
- (c) in subsection (2A)(b) omit “or the Scottish additional rate,”,
- (d) in subsection (4) omit “or the Scottish basic, higher or additional rate”, and
- (e) after subsection (4) insert –
- “(5) In relation to an individual who is a Scottish taxpayer, references in this section to income that would otherwise be charged at a particular rate are to be read as references to income that would, if the individual were not a Scottish taxpayer, be charged at that rate (and subsection (4) is to be read accordingly).” 35
- (12) For section 16(1)(za) (purposes for which section 16 has effect in relation to income tax of a Scottish taxpayer) substitute –
- “(za) which part of a Scottish taxpayer’s income consists of savings income,” 40
- (13) In section 989 (definitions for the purposes of the Income Tax Acts) –

- (a) omit the definitions of “Scottish additional rate” and “Scottish higher rate”,
- (b) in the definition of “Scottish basic rate”, for the words after “Scottish basic rate” substitute “in relation to a tax year, means the Scottish basic rate set by a Scottish rate resolution for that year”,
- (c) at the appropriate place insert – 5  
     ““Scottish rate” in relation to a tax year, means a rate set by a Scottish rate resolution for that year,”, and  
     ““Scottish rate resolution” means a resolution of the Scottish Parliament under section 80C of the Scotland Act 1998,”.
- (14) In Schedule 4 (index of defined expressions) – 10
- (a) omit the entries relating to the Scottish additional rate and the Scottish higher rate,
- (b) in the entry relating to the Scottish basic rate for “6A (as applied by section 989)” substitute “989”,
- (c) at the appropriate place insert – 15
- |                |  |              |
|----------------|--|--------------|
| “Scottish rate |  | section 989” |
|----------------|--|--------------|
- |                |  |              |
|----------------|--|--------------|
| “Scottish rate |  | section 989” |
|----------------|--|--------------|

20
- (d) at the appropriate place insert –
- |                              |  |              |
|------------------------------|--|--------------|
| “Scottish rate<br>resolution |  | section 989” |
|------------------------------|--|--------------|

25
- |                              |  |              |
|------------------------------|--|--------------|
| “Scottish rate<br>resolution |  | section 989” |
|------------------------------|--|--------------|

30
- (15) The amendments made by this section – 30
- (a) come into force on the day appointed by the Treasury under section 12(14), and
- (b) have effect in relation to the tax year appointed by the Treasury under section 12(15) and subsequent tax years. 35

#### 14 Consequential amendments: income tax

- (1) In section 110(2) of the Scotland Act 1998 (Scottish taxpayers: rates of income tax for social security purposes) for the words from “the Scottish basic rate” to “Scottish taxpayers” substitute “a Scottish rate (within the meaning of the Income Tax Acts)”. 40
- (2) Section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) is amended as follows.
- (3) In subsections (4) and (5) omit “, the Scottish higher rate”.

- (4) At the end insert—
- “(10) For the purposes of the following references, an individual who is a Scottish taxpayer is to be treated as if the individual were not a Scottish taxpayer—
- (a) the references in subsections (4) and (5) to income tax being chargeable at the higher rate; 5
  - (b) the reference in subsection (7) to the basic rate limit.
- (11) Section 4A(5) is to be read accordingly.”
- (5) In section 4A(5) of that Act (section 4: special cases) omit “, the Scottish higher rate”.
- (6) In consequence of the amendments made by sections 12, 13 and this section omit the following provisions of Schedule 38 to the Finance Act 2014— 10
- (a) paragraph 2(b);
  - (b) paragraph 3;
  - (c) paragraph 6(a) to (c) and (e);
  - (d) paragraph 7;
  - (e) paragraph 15(2) and (3); 15
  - (f) paragraph 16(2) and (8).
- (7) The amendments made by this section—
- (a) come into force on the day appointed by the Treasury under section 12(14), and
  - (b) have effect in relation to the tax year appointed by the Treasury under section 12(15) and subsequent tax years. 20
- (8) The Treasury may by regulations make—
- (a) such consequential provision as they consider appropriate in connection with any provision of section 12 or 13;
  - (b) such transitional or saving provision as they consider appropriate in connection with the coming into force of any provision of section 12 or 13 or subsections (1) to (6). 25
- (9) Regulations under this section may amend, repeal, revoke or otherwise modify an enactment, whenever passed or made (including this Act).
- (10) The following are subject to any provision made by virtue of subsection (8)(b)— 30
- (a) subsection (7);
  - (b) section ~~12~~[12](#)(15);
  - (c) section 13(15).
- (11) Regulations under this section must be made by statutory instrument.
- (12) A statutory instrument containing regulations under this section which includes provision amending or repealing a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons. 35
- (13) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons.

- (14) In this section “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978).

*Value added tax*

**15 Assignment of VAT** 5

- (1) The Scotland Act 1998 is amended as follows.
- (2) In section 64 (Scottish Consolidated Fund), after subsection (2) insert – 10
- “(2A) The Secretary of State shall in accordance with section 64A pay into the Fund out of money provided by Parliament any amounts payable under that section.”

- (3) After that section insert –

**“64A Assignment of VAT**

- (1) Where there is an agreement between the Treasury and the Scottish Ministers for identifying an amount agreed to represent the standard rate VAT attributable to Scotland for any period (“the agreed standard rate amount”), the amount described in subsection (3) is payable under this section in respect of that period. 15

- (2) Where there is an agreement between the Treasury and the Scottish Ministers for identifying an amount agreed to represent the reduced rate VAT attributable to Scotland for that period (“the agreed reduced rate amount”), the amount described in subsection (4) is payable under this section in respect of that period. 20

- (3) The amount payable in accordance with subsection (1) is the amount obtained by multiplying the agreed standard rate amount by –

$$\frac{10}{SR}$$

where SR is the number of percentage points in the rate at which value added tax is charged under section 2(1) of the Value Added Tax Act 1994 for the period. 25

- (4) The amount payable in accordance with subsection (2) is the amount obtained by multiplying the agreed reduced rate amount by –

$$\frac{2.5}{RR}$$

where RR is the number of percentage points in the rate at which value added tax is charged under section 29A(1) of the Value Added Tax Act 1994 for the period. 30

- (5) The payment of those amounts under section 64(2A) is to be made in accordance with any agreement between the Treasury and the Scottish Ministers as to the time of the payment or otherwise.” 35

- (4) The Commissioners for Revenue and Customs Act 2005 is amended as follows.

- (5) In subsection (2) of section 18 (confidentiality: exceptions) omit “or” after

paragraph (i), and after paragraph (j) insert “, or

- (k) which is made in connection with (or with anything done with a view to) the making or implementation of an agreement referred to in section 64A(1) or (2) of the Scotland Act 1998 (assignment of VAT).”

(6) After that subsection insert –

“(2A) Information disclosed in reliance on subsection (2)(k) may not be further disclosed without the consent of the Commissioners (which may be general or specific).”

(7) In section 19 (wrongful disclosure) in subsections (1) and (8) after “18(1)” insert “or (2A)”.

#### *Devolved taxes*

### **16 Tax on carriage of passengers by air**

(1) In Part 4A of the Scotland Act 1998, after Chapter 4 insert –

#### **“CHAPTER 5**

#### **TAX ON CARRIAGE OF PASSENGERS BY AIR**

### **65 Tax on carriage of passengers by air**

A tax charged on the carriage of passengers by air from airports in Scotland is a devolved tax.”

(2) Tax may not be charged in accordance with that provision on the carriage of passengers boarding aircraft before the date appointed under subsection (7).

(3) Chapter 4 of Part 1 of The Finance Act 1994 (air passenger duty) is amended as follows.

(4) In section 28(4) (a chargeable passenger is a passenger whose journey begins at an airport in the United Kingdom), for “the United Kingdom” substitute “England, Wales or Northern Ireland”.

(5) In section 31(4B) (exception for passengers departing from airports in designated region of the United Kingdom) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.

(6) The Air Passenger Duty (Designated Region of the United Kingdom) Order 2001 (S.I. 2001/808) is revoked.

(7) Subsections (3) to (6) have effect in relation to flights beginning on or after such date as the Treasury appoint by regulations made by statutory instrument.

### **17 Tax on commercial exploitation of aggregate**

(1) In Part 4A of the Scotland Act 1998, after the Chapter 5 inserted by section 16

insert—

## “CHAPTER 6

### TAX ON COMMERCIAL EXPLOITATION OF AGGREGATE

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#### **80M Tax on commercial exploitation of aggregate**

(1) A tax which is charged on aggregate when it is subjected to commercial exploitation in Scotland is a devolved tax.

(2) The tax must not be chargeable when aggregate is subjected to commercial exploitation for fuel.

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(3) Aggregate is subjected to commercial exploitation for fuel—

(a) when the aggregate is used as fuel;

(b) when the aggregate is subjected to commercial exploitation for the purpose of extracting or producing anything capable of being used as fuel;

(c) when the aggregate becomes subject to an agreement to use it as mentioned in paragraph (a) or to subject it to commercial exploitation as mentioned in paragraph (b).”

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(2) Tax may not be charged in accordance with that provision on commercial exploitation of aggregate which takes place before the date appointed under subsection (4).

(3) In section 16(2) of the Finance Act 2001 (aggregates levy) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.

(4) Subsection (3) and Schedule 1 (further amendments relating to the disapplication of UK aggregates levy to Scotland) have effect in relation to commercial exploitation of aggregate which takes place on or after such date as the Treasury appoint in regulations made by statutory instrument.

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#### **18 Devolved taxes: further provision**

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(1) In section 80A of the Scotland Act 1998 (overview of Part 4A), in subsection (1)(b), for “Chapters 3 and 4” substitute “The remaining Chapters”.

(2) The Treasury may by regulations make further provision relating to—

(a) the disapplication of air passenger duty in relation to flights beginning at airports in Scotland;

(b) the disapplication of aggregates levy in relation to commercial exploitation of aggregate in Scotland.

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(3) The power conferred by subsection (2) includes power—

(a) to make transitional or saving provision in connection with the coming into force of section 16 or 17 or Schedule 1;

(b) to amend, repeal, revoke or otherwise modify an enactment, whenever passed or made (including this Act).

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(4) Section 16(7) and section 17(4) are subject to any provision made by virtue of subsection (3).

(5) Regulations under this section must be made by statutory instrument.

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- (6) A statutory instrument containing regulations under this section which includes provision amending or repealing a provision of an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons. 5
- (7) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of the House of Commons, is subject to annulment in pursuance of a resolution of the House of Commons. 5
- (8) In this section “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978). 10

### PART 3

#### WELFARE BENEFITS AND EMPLOYMENT SUPPORT 15

##### *Welfare benefits*

#### 19 Disability, industrial injuries and carer’s benefits

- (1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section F1 (social security schemes) is amended as follows. 20
- (2) In the Exceptions, before the paragraph beginning “The subject-matter of Part II of the Social Work (Scotland) Act 1968” insert –
- “Exception 1** 25
- Any of the following benefits –
- (a) disability benefits, other than severe disablement benefit or industrial injuries benefits,
- (b) severe disablement benefit, so far as payable in respect of a relevant person, and 30
- (c) industrial injuries benefits, so far as relating to relevant employment or to participation in training for relevant employment;
- but this exception does not except a benefit which is, or which is an element of, an excluded benefit. 35
- Exception 2**
- Carer’s benefits, other than a benefit which is, or which is an element of, an excluded benefit.”
- (3) In the Exceptions, at the beginning of the paragraph beginning “The subject-matter of Part II of the Social Work (Scotland) Act 1968” insert – 40
- “Exception 3”.**
- (4) In the Interpretation provision, after “local taxes.” insert –
- ““Disability benefit” means a benefit which is normally payable in respect of – 45
- (a) a significant adverse effect that impairment to a person’s physical or mental condition has on his or her ability to carry out day-to-day activities (for example, looking after yourself, moving around or communicating), or

(b) a significant need (for example, for attention or for supervision to avoid substantial danger to anyone) arising from impairment to a person’s physical or mental condition; and for this purpose the adverse effect or need must not be short-term.

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“Severe disablement benefit” means a benefit which is normally payable in respect of –

(a) a person’s being incapable of work for a period of at least 28 weeks beginning not later than the person’s 20th birthday, or

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(b) a person’s being incapable of work and disabled for a period of at least 28 weeks;

and “relevant person”, in relation to severe disablement benefit, means a person who is entitled to severe disablement allowance under section 68 of the Social Security Contributions and Benefits Act 1992 on the date on which section 19 of the Scotland Act 2015 comes into force as respects severe disablement benefit.

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“Industrial injuries benefit” means a benefit which is normally payable in respect of –

(a) a person’s having suffered personal injury caused by accident arising out of and in the course of his or her employment, or

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(b) a person’s having developed a disease or personal injury due to the nature of his or her employment;

and for this purpose “employment” includes participation in training for employment.

“Relevant employment”, in relation to industrial injuries benefit, means employment which –

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(a) is employed earner’s employment for the purposes of section 94 of the Social Security Contributions and Benefits Act 1992 as at 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2015), or

(b) would be such employment but for –

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(i) the contract purporting to govern the employment being void, or

(ii) the person concerned not being lawfully employed, as a result of a contravention of, or non-compliance with, provision in or made by virtue of an enactment passed to protect employees.

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“Carer’s benefit” means a benefit which is normally payable in respect of the regular and substantial provision of care by a relevant carer to a disabled person; and for this purpose –

(a) “relevant carer” means a person who –

(i) is 16 or over,

(ii) is not in full-time education, and

(iii) is not gainfully employed;

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(b) “disabled person” means a person to whom a disability benefit is normally payable.

“Excluded benefit” means –

- (a) a benefit, entitlement to which, or the amount of which, is normally determined to any extent by reference to a person’s income or capital (for example, universal credit under Part 1 of the Welfare Reform Act 2012),
- (b) a benefit which is payable out of the National Insurance Fund (for example, employment and support allowance under section 1(2)(a) of the Welfare Reform Act 2007), or 5
- (c) a benefit payable by way of lump sum in respect of a person’s having, or having had –
- (i) pneumoconiosis, 10
  - (ii) byssinosis,
  - (iii) diffuse mesothelioma,
  - (iv) bilateral diffuse pleural thickening, or
  - (v) primary carcinoma of the lung where there is accompanying evidence of one or both of asbestosis and bilateral diffuse pleural thickening. 15
- “Employment” includes any trade, business, profession, office or vocation (and “employed” is to be read accordingly).”
- 20 Benefits for maternity, funeral and heating expenses** 20
- (1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section F1 is amended as follows.
- (2) In the Exceptions, after exception 3 (see section 19(3) above) insert –
- “Exception 4**  
Providing financial assistance for the purposes of meeting – 25
- (a) maternity expenses,
  - (b) funeral expenses, or
  - (c) expenses for heating in cold weather.”
- (3) In the Exceptions, for the words from “But the following are not excepted” to “Act 2000 (discretionary housing payments).” substitute – 30
- “Exclusions from exceptions 1 to 8**  
Nothing in exceptions 1 to 8 is to be read as excepting –
- (a) the National Insurance Fund,
  - (b) the Social Fund, or 35
  - (c) the provision by a Minister of the Crown of assistance by way of loan for the purpose of meeting, or helping to meet, an intermittent expense.”
- (4) In the Interpretation provision, omit the words from “Paragraph 5(1) of Part 3 of this Schedule” to “it is to be treated as if it were.” 40
- 21 Discretionary payments: top-up of reserved benefits**
- In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 4 (see section 20 above) insert – 45
- “Exception 5**  
Providing financial assistance to an individual who –

- (a) is entitled to a reserved benefit, and
- (b) appears to require financial assistance, in addition to any amount the individual receives by way of reserved benefit, for the purpose, or one of the purposes, for which the benefit is being provided.

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This exception does not except discretionary financial assistance in a reserved benefit.

This exception also does not except providing financial assistance to meet or help to meet housing costs (as to which, see exception 6).

This exception also does not except providing financial assistance where the requirement for it arises from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless –

10

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the requirement for it is immediate.

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For the purposes of this exception “reserved benefit” means a benefit which is to any extent a reserved matter.”

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## 22 Discretionary housing payments

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, after exception 5 (see section 21 above) insert –

### “Exception 6

Providing financial assistance to an individual who –

- (a) is entitled to –
  - (i) housing benefit, or
  - (ii) any other reserved benefit payable in respect of a liability to make rent payments, and
- (b) appears to require financial assistance, in addition to any amount the individual receives by way of housing benefit or such other reserved benefit, to meet or help to meet housing costs.

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This exception does not except discretionary financial assistance in a reserved benefit.

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This exception also does not except providing financial assistance to an individual on a regular basis in respect of accommodation where the assistance exceeds –

- (a) in a case where the individual is entitled to housing benefit, the total amount of the payments in respect of which housing benefit is payable less any charges for which housing benefit is not payable in the individual's case, and
- (b) in a case where the individual is entitled to any other reserved benefit, the maximum amount that the individual could receive by way of that benefit in respect of that accommodation.

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This exception also does not except providing financial assistance where the requirement for it arises from reduction, non-payability or suspension of a reserved benefit as a result of an individual's

conduct (for example, non-compliance with work-related requirements relating to the benefit) unless –

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the requirement for it is immediate.

For the purposes of this exception –

“rent payments” –

- (a) has the meaning given from time to time by paragraph 2 of Schedule 1 to the Universal Credit Regulations 2013 (S.I. 2013/376) or any re-enactment of that paragraph, or
- (b) if at any time universal credit ceases to be payable to anyone, has the meaning given by that paragraph or any re-enactment of that paragraph immediately before that time;

“reserved benefit” means a benefit which is to any extent a reserved matter.”

## 23 Discretionary payments and assistance

In Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, in the Exceptions, for the words from “Providing occasional financial” to “unsettled way of life.” substitute –

### “Exception 7

Providing financial or other assistance to or in respect of individuals who appear to require it for the purposes of meeting, or helping to meet, a short-term need that requires to be met to avoid a risk to the well-being of an individual.

This exception does not except providing assistance where the requirement for it arises from reduction, non-payability or suspension of a benefit as a result of an individual’s conduct (for example, non-compliance with work-related requirements relating to the benefit) unless –

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the need is immediate as well as short-term.

### Exception 8

Providing occasional financial or other assistance to or in respect of individuals who have been or might otherwise be –

- (a) in prison, hospital, a residential care establishment or other institution, or
- (b) homeless or otherwise living an unsettled way of life,

and who appear to require the assistance to establish or maintain a settled home.”

## 24 Universal credit: costs of claimants who rent accommodation

- (1) A function of making regulations to which this section applies, so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State.

- (2) This section applies to –
- (a) regulations under section 11(4) of the Welfare Reform Act 2012 (determination and calculation of housing cost element), so far as relating to any liability of a claimant in respect of accommodation which the claimant rents, and 5
  - (b) regulations under section 5(1)(p) of the Social Security Administration Act 1992 (payments to another person on behalf of the beneficiary), so far as relating to the payment of an amount of universal credit in respect of any such liability.
- (3) For the purposes of this section – 10
- (a) a claimant “rents” accommodation if he or she is liable to make rent payments (with or without other payments) in respect of it, and
  - (b) “rent payments” has the meaning given from time to time by paragraph 2 of Schedule 1 to the Universal Credit Regulations 2013 (S.I. 2013/376).
- (4) The Scottish Ministers may not exercise the function of making regulations to which this section applies unless – 15
- (a) they have consulted the Secretary of State about the practicability of implementing the regulations, and
  - (b) the Secretary of State has given his or her agreement as to when any change made by the regulations is to start to have effect, such agreement not to be unreasonably withheld.
- (5) The Secretary of State may not exercise the function of making regulations to which this section applies in or as regards Scotland unless he or she has consulted the Scottish Ministers. 20
- (6) Where regulations are made by the Scottish Ministers by virtue of subsection (1) –
- (a) section 43 of the Welfare Reform Act 2012 (in the case of regulations referred to in subsection (2)(a)) and sections 189(3) and 190 of the Social Security Administration Act 1992 (in the case of regulations referred to in subsection (2)(b)) do not apply, and 25
  - (b) the regulations are subject to the negative procedure (see [Part 2 section 28](#) of the Interpretation and Legislative Reform (Scotland) Act ~~2010~~ [\(asp 10\)2010](#)).

## 25 Universal credit: persons to whom, and time when, paid 30

- (1) A function of making regulations to which this section applies, so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State. 35
- (2) This section applies to regulations under section 5(1)(i) of the Social Security Administration Act 1992, so far as relating to the person to whom, or the time when, universal credit is to be paid.
- (3) The Scottish Ministers may not exercise the function of making regulations to which this section applies unless – 40
- (a) they have consulted the Secretary of State about the practicability of implementing the regulations, and
  - (b) the Secretary of State has given his or her agreement as to when any change made by the regulations is to start to have effect, such agreement not to be unreasonably withheld. 45

- (4) The Secretary of State may not exercise the function of making regulations to which this section applies in or as regards Scotland unless he or she has consulted the Scottish Ministers.
- (5) Where regulations are made by the Scottish Ministers by virtue of subsection (1) – 5
- (a) sections 189(3) and 190 of the Social Security Administration Act 1992 do not apply, and
  - (b) the regulations are subject to the negative procedure (see [Part 2 section 28](#) of the Interpretation and Legislative Reform (Scotland) Act ~~2010~~ [\(asp 10\)2010](#)).

### *Employment support*

## 26 Employment support 10

- (1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section H3 (job search and support) is amended as follows.
- (2) For the heading “Exception” substitute “Exceptions”. 15
- (3) After that heading insert –

#### **“Exception 1**

The making by a person of arrangements for, or arrangements for the purposes of or in connection with a scheme for, any of the following purposes – 20

- (a) assisting disabled persons to select, obtain and retain employment;
- (b) assisting persons claiming reserved benefits who are at risk of long-term unemployment to select, obtain and retain employment, where the assistance is for at least a year; 25
- (c) assisting employers to obtain suitable employees who are persons referred to in paragraph (a) or (b).

The arrangements referred to in this exception include –

- (a) securing that the assistance referred to in this exception is provided by another person;
- (b) providing or arranging for the provision of facilities, support or services to any person; 30
- (c) the making of payments to any person.

The assistance referred to in this exception includes –

- (a) work search support,
- (b) skills training, and
- (c) work placements for the benefit of the community. 35

In this exception –

- (a) “disabled person” has the same meaning as it has in the Equality Act 2010 as at 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2015);
- (b) “reserved benefit” means a benefit which is to any extent a reserved matter.”

- (4) At the beginning of the existing exception which begins “The subject-matter

of –” insert –

**“Exception 2”.**

- (5) The Scotland Act 1998 has effect as if section 56(1)(g) of that Act included a reference to section 17B of the Jobseekers Act 1995.

5

*General*

**27 Functions exercisable within devolved competence**

- (1) The Scotland Act 1998 (“the 1998 Act”) has effect, in relation to any function so far as exercisable within devolved competence by virtue of a provision of section 19, 20, 21, 22, 23 or 26, as if references to a “pre-commencement enactment” were to –

10

- (a) an Act passed before or in the same session as the relevant date,  
(b) any other enactment made before the relevant date,  
(c) subordinate legislation under section 106 of the 1998 Act, to the extent that the legislation states that it is to be treated as a pre-commencement enactment,

15

but did not include the 1998 Act or this Act (or any amendment made by either of those Acts) ~~or (or, subject to paragraph (c))~~ an enactment comprised in subordinate legislation under either of those Acts.

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- (2) In this section –  
(a) expressions used in the 1998 Act have the same meaning as in that Act;  
(b) in relation to a provision of section 19, 20, 21, 22, 23 or 26, the relevant date for any purpose is the date on which the provision comes into force for that purpose.

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- (3) In section 53 of the 1998 Act (general transfer of functions), after subsection (3) insert –

“(3A) But see sections 27 and 44 of the Scotland Act 2015 (which give “pre-commencement enactment” a different meaning for functions exercisable within devolved competence by virtue of certain provisions of that Act).”

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**28 Universal credit: supplementary**

- (1) Section 117 of the Scotland Act 1998 applies in relation to the exercise of a function by the Scottish Ministers by virtue of section 24(1) or section 25(1) as it applies in relation to the exercise of functions by the Scottish Ministers within devolved competence.

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- (2) For this purpose, the reference in section 117 to a pre-commencement enactment is to be read as a reference to any enactment.

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**29 Information-sharing**

- (1) Information held by the Secretary of State for the purpose of a social security function may be supplied by the Secretary of State to the Scottish Ministers for use for the purpose of a relevant Scottish social security function.

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- (2) Where information is supplied to the Scottish Ministers under subsection (1) for use for any purpose, they may use it for any other purposes for which information held by them for that purpose may be used.
- (3) Information held by the Scottish Ministers for the purpose of a relevant Scottish social security function may be supplied by them to the Secretary of State for use for the purpose of a social security function. 5
- (4) Where information is supplied to the Secretary of State under subsection (3) for use for any purpose, the Secretary of State may use it for any other purposes for which information held by him or her for that purpose may be used. 10
- (5) In subsections (1) to (4) –
- (a) references to the Secretary of State include a person providing services to him or her;
  - (b) references to the Scottish Ministers include a person providing services to them.
- (6) Information supplied under this section must not be supplied by the recipient of the information to any other person or body without – 15
- (a) the authority of the Secretary of State, in the case of information supplied under subsection (1);
  - (b) the authority of the Scottish Ministers, in the case of information supplied under subsection (3).
- (7) In this section – 20
- “social security function” means a function of the Secretary of State relating to –
- (a) social security,
  - (b) the investigation or prosecution of offences relating to tax credits, 25
  - (c) employment or training,
  - (d) war pensions, or
  - (e) any other prescribed matter;
- “relevant Scottish social security function” means –
- (a) a function which is exercisable by the Scottish Ministers within devolved competence by virtue of any of the following provisions of Part 2 of Schedule 5 to the Scotland Act 1998 – 30
    - (i) exceptions 1, 2 and 4 to 8 in Section F1 (social security schemes), and
    - (ii) exception 1 in Section H3 (job search and support);
  - (b) a function of the Scottish Ministers under or by virtue of –
    - (i) section 24 (universal credit: costs of claimants who rent accommodation), or
    - (ii) section 25 (universal credit: persons to whom, and time when, paid);
  - (c) any other prescribed function of the Scottish Ministers. 35
- (8) In subsection (7) –
- (a) the reference to a function being exercisable within devolved competence is to be read in accordance with section 54 of the Scotland Act 1998;
  - (b) “war pensions” means schemes for the payment of pensions, grants, allowances, supplements or gratuities for or in respect of persons who 40

have a disablement or have died in consequence of service as members of the armed forces of the Crown;	
(c) “prescribed” means prescribed by regulations made by the Secretary of State.	
(9) Regulations under this section must be made by statutory instrument.	5
(10) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.	
<b>30 Extension of unauthorised disclosure offence</b>	10
(1) Part 2 of Schedule 4 to the Social Security Administration Act 1992 is amended as follows.	
(2) After paragraph 1A insert –	
“1B The reference in Part 1 of this Schedule to the Scottish Administration is a reference to that Administration only to the extent that the functions carried out by persons in its employ –	15
(a) relate to social security, or	
(b) are, or are connected with, functions of the First-tier Tribunal or Upper Tribunal which relate to social security or to occupational or personal pension schemes or to war pensions or functions of the Chief, or any other, Social Security Commissioner.”	20
(3) In paragraph 3, omit “, the Scottish Administration”.	
<b>PART 4</b>	25
OTHER LEGISLATIVE COMPETENCE	
<b>31 Crown Estate</b>	30
(1) In Part 5 of the Scotland Act 1998, before the heading “Miscellaneous” insert –	
<i>“The Crown Estate</i>	
<b>90B The Crown Estate</b>	35
(1) The Treasury may make a scheme transferring on the transfer date all the existing Scottish functions of the Crown Estate Commissioners (“the Commissioners”) to the Scottish Ministers or a person nominated by the Scottish Ministers (“the transferee”).	
(2) The existing Scottish functions are the Commissioners’ functions relating to the part of the Crown Estate that, immediately before the transfer date, consists of –	40
(a) property, rights or interests in land in Scotland, excluding property, rights or interests mentioned in subsection (3), and	
(b) rights in relation to the Scottish zone.	45
(3) Where immediately before the transfer date part of the Crown Estate consists of property, rights or interests held by a limited partnership	

- registered under the Limited Partnerships Act 1907, subsection (2)(a) excludes –
- (a) the property, rights or interests, and
  - (b) any property, rights or interests in, or in a member of, a partner in the limited partnership. 5
- (4) Functions relating to rights within subsection (2)(b) are to be treated for the purposes of this Act as exercisable in or as regards Scotland.
- (5) The scheme may specify any property, rights or interests that appear to the Treasury to fall within subsection (2)(a) or (b), without prejudice to the functions transferred by the scheme. 10
- (6) The scheme must provide for the transfer to the transferee of designated rights and liabilities of the Commissioners in connection with the functions transferred.
- (7) The scheme must include provision to secure that the employment of any person in Crown employment (within the meaning of section 191 of the Employment Rights Act 1996) is not adversely affected by the transfer. 15
- (8) The scheme must include such provision as the Treasury consider necessary or expedient –
- (a) in the interests of defence or national security,
  - (b) in connection with access to land for the purposes of telecommunications, or with other matters falling within Section C10 in Part 2 of Schedule 5, 20
  - (c) for securing that the management of property, rights or interests to which the existing Scottish functions relate does not conflict with the exploitation of resources falling within Section D2 in Part 2 of Schedule 5, or with other reserved matters in connection with their exploitation, and
  - (d) for securing consistency, in the interests of consumers, in the management of property, rights or interests to which the existing Scottish functions relate and of property, rights or interests to which other functions of the Commissioners relate, so far as it affects the transmission or distribution of electricity or the provision or use of electricity interconnectors. 25
- (9) Any transfer by the scheme is subject to any provision under subsection (8). 30
- (10) The scheme may include –
- (a) incidental, supplemental and transitional provision;
  - (b) consequential provision, including provision amending an enactment, instrument or other document; 35
  - (c) provision conferring or imposing a function on any person including any successor of the transferee;
  - (d) provision for the creation of new rights or liabilities in relation to the functions transferred.
- (11) On the transfer date, the existing Scottish functions and the designated rights and liabilities are transferred and vest in accordance with the scheme. 40

- (12) A certificate by the Treasury that anything specified in the certificate has vested in any person by virtue of the scheme is conclusive evidence for all purposes.
- (13) The Treasury may make a scheme under this section only with the agreement of the Scottish Ministers. 5
- (14) The power to make a scheme under this section is exercisable by statutory instrument.
- (15) The power to amend the scheme is exercisable so as to provide for an amendment to have effect from the transfer date. 10
- (16) In this section –  
“designated” means specified in or determined in accordance with the scheme;  
“the transfer date” means a date specified by the scheme as the date on which the scheme is to have effect.” 15
- (2) In Part 1 of Schedule 5 to the Scotland Act 1998 (general reservations) in paragraph 2(3) after “Crown Estate” insert “(that is, the property, rights and interests under the management of the Crown Estate Commissioners)”.
- (3) In paragraph 1(2) of Schedule 7 to that Act (procedure for subordinate legislation) in the appropriate place insert – 20
- “Section 90B | Type C”
- (4) After paragraph 3 of that Schedule insert – 25  
“3A If legislation under section 90B amends a scheme under that section and does not contain provision –  
(a) made by virtue of subsection (8) or (15) of that section, or  
(b) adding to, replacing or omitting any part of the text of an Act, then, instead of the type C procedure, the type I procedure shall apply.” 30
- (5) For the purposes of the exercise on and after the transfer date of functions transferred by the scheme under section 90B of the Scotland Act 1998, the Crown Estate Act 1961 applies in relation to the transferee as it applied immediately before that date to the Crown Estate Commissioners, with the following modifications – 35  
(a) a reference to the Crown Estate is to be read as a reference to the property, rights and interests to which the transferred functions relate;  
(b) a reference to the Secretary of State or the Treasury is to be read as a reference to the Scottish Ministers; 40  
(c) a reference to the Comptroller and Auditor General is to be read as a reference to the Auditor General for Scotland;  
(d) a reference to Parliament or either House of Parliament is to be read as a reference to the Scottish Parliament;  
(e) the following do not apply –  
in section 1, subsections (1), (4) and (7); 45

in section 2, subsections (1) and (2) and, if the Scottish Ministers are the transferee, the words in subsection (3) from “in relation thereto” to the end;	
sections 5, 7 and 8 and Schedule 1.	
(6) Subsection (5) is subject to any provision made by Order in Council under subsection (7) or by any other enactment, including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.	5
(7) Her Majesty may by Order in Council make such provision as She considers appropriate for or in connection with the exercise by the transferee under the scheme under section 90B of the Scotland Act 1998 of functions transferred by the scheme, including provision taking effect on or before the transfer date.	10
(8) The power to make an Order in Council under subsection (7) is exercisable by Scottish statutory instrument subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).	15
(9) That power is to be regarded as being exercisable within devolved competence before the transfer date for the purposes of –	15
(a) section 92(4)(c) of the Scotland Act 1998 (Queen’s Printer for Scotland);	
(b) section 104(2)(c) of that Act (power to make provision consequential on legislation of, or scrutinised by, the Parliament);	
(c) paragraph 11(3)(c) of Schedule 4 to that Act (modification of enactments in relation to making of subordinate legislation).	20
(10) Nothing in this section or any other enactment confers power to make provision (by Order in Council, Act of the Scottish Parliament or otherwise) that would modify, for the purposes of the transfer of functions by the scheme under section 90B of the Scotland Act 1998 or at any time after its transfer by that scheme, the function of maintaining the property, rights and interests within subsection (2) of that section as an estate in land, with such proportion of cash or investments as seems to the person managing them to be required for the discharge of that person’s functions in relation to them.	25
(11) In section 1(2) of the Civil List Act 1952 (payment of hereditary revenues into the Scottish Consolidated Fund) after “treasure trove” insert “and from the property, rights and interests the management of which is transferred by the scheme under section 90B of the Scotland Act 1998”.	30
(12) In Schedule 1 to the Crown Estate Act 1961, omit paragraph 1(3A) and (4A) (Commissioner with special responsibility for Scotland).	35
(13) In the Scotland Act 2012, omit section 18.	35
<b>32 Equal opportunities</b>	
(1) Section L2 in Part 2 of Schedule 5 to the Scotland Act 1998 (equal opportunities) is amended as follows.	40
(2) For the words from “including” to the end of paragraph (d) substitute “including the subject-matter of –	40
(a) the Equality Act 2006, and	
(b) the Equality Act 2010.”	45

- (3) Under the heading “Exceptions”, at the end insert –
- “The subject-matter of Part 1 of the Equality Act 2010 (socio-economic inequalities).
- Equal opportunities in relation to the Scottish functions of any Scottish public authority or cross-border public authority. The provision falling within this exception does not include any modification of the Equality Act 2006 or the Equality Act 2010, or any subordinate legislation made under those Acts, but does include –
- (a) provision that supplements or is otherwise additional to provision made by those Acts;
  - (b) in particular, provision imposing a requirement to take action that the Acts do not prohibit;
  - (c) provision that reproduces or applies an enactment contained in those Acts, with or without modification, without affecting the enactment as it applies for the purposes of those Acts.”
- (4) Under the heading “Interpretation”, at the end insert –
- “The references to the Equality Act 2006, the Equality Act 2010 and Part 1 of that Act, and to any subordinate legislation made under those Acts, are to be read as references to those enactments, as at the day on which section 32 of the Scotland Act 2015 comes into force, but treating any provision of them that is not yet in force on that day as if it were in force.”
- (5) The Equality Act 2010 is amended as follows.
- (6) In section 2, after subsection (7) (duty to consult before amending section 1) insert –
- “(7A) Subsection (7) applies to the making of regulations by the Scottish Ministers only so far as it is outside devolved competence (within the meaning of the Scotland Act 1998) to make them.
- (7) In section 152(3) (power to specify public authorities: consultation and consent), for the words after “must” substitute “consult the Commission, and after making such an order they must inform a Minister of the Crown.”
- (8) In the table in section 154(3) (power to impose specific duties: cross-border authorities) in the second column for the words “The Scottish Ministers must consult a Minister of the Crown before” in both places substitute “The Scottish Ministers must inform a Minister of the Crown after”.
- (9) In section 216 (commencement) at the beginning of subsection (3) insert “Subject to subsection (4),” and after that subsection insert –
- “(4) Part 1, so far as it confers a power on the Scottish Ministers that is exercisable within devolved competence, within the meaning of the Scotland Act 1998, comes into force on such day as the Scottish Ministers may by order appoint.
  - (5) The following do not apply to an order under subsection (4) –
    - (a) section 207(2) (see instead section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: ~~powers~~functions exercisable by Scottish statutory instrument), and
    - (b) section 210.”

- (10) In the Interpretation and Legislative Reform (Scotland) Act 2010, in section 30(4) (other instruments laid before the Parliament: exceptions) after paragraph (i) insert –  
“(j) section 216(4) of the Equality Act 2010 (c.15).”

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### 33 Tribunals

- (1) In Part 3 of Schedule 5 to the Scotland Act 1998 (reserved matters: general provisions) after paragraph 2 insert –

*“Tribunals*

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2A (1) This Schedule does not reserve the transfer to a Scottish tribunal of functions of a tribunal that relate to reserved matters, so far as those functions are exercisable in relation to Scottish cases.

- (2) Sub-paragraph (1) does not apply in relation to functions of any of the following –

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- (a) the First-tier Tribunal or the Upper Tribunal that are established under section 3 of the Tribunals, Courts and Enforcement Act 2007;
- (b) an employment tribunal or the Employment Appeal Tribunal;
- (c) a tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992;
- (d) a tribunal listed in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007<sup>2</sup>.

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- (3) Sub-paragraph (2)(c) and (d) include a tribunal added to the Schedule concerned after this paragraph comes into force.

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- (4) This Schedule does not reserve the transfer of a specified function of a tribunal referred to in sub-paragraph (2) to a specified Scottish tribunal, so far as the function is exercisable in relation to Scottish cases, in accordance with provision made by Her Majesty by Order in Council.

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- (5) An Order in Council under this paragraph may make any provision which Her Majesty considers necessary or expedient for the purposes of or in consequence of the transfer of the function and its exercise by the Scottish tribunal.

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- (6) Such provision may –

- (a) include provision that –
  - (i) modifies the function;
  - (ii) imposes conditions or restrictions (including conditions or restrictions relating to the composition or rules of procedure of the Scottish tribunal, or to its staff or accommodation);
  - (iii) specifies the category or categories of Scottish cases in relation to which the transfer is to have effect;
- (b) be made with a view to purposes including –
  - (i) securing consistency in any respect in practice or procedure or otherwise between the Scottish tribunal and other tribunals;

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- (ii) promoting judicial co-operation in the interests of consistency.
- (7) Sub-paragraph (6) does not limit the provision that may be made by virtue of sub-paragraph (5).
- (8) Sub-paragraph (1) does not apply in relation to functions of any of the following – 5
- (a) the Pathogens Access Appeal Commission;
  - (b) the Proscribed Organisations Appeal Commission;
  - (c) the Special Immigration Appeals Commission;
  - (d) the tribunal established by section 65(1) of the Regulation of Investigatory Powers Act 2000 (investigatory powers tribunal); 10
  - (e) any other tribunal that has functions relating to matters falling within Section B8 of Part 2 of this Schedule.
- (9) Neither sub-paragraph (1) nor sub-paragraph (4) applies in relation to functions of a regulator, or of a person or body that exercises functions on behalf of a regulator. 15
- (10) Sub-paragraph (4) does not apply in relation to functions of the Comptroller-General of Patents, Designs and Trade Marks.
- (11) In this paragraph –
- a “regulator” means a person or body that has regulatory functions (within the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006); 20
  - “Scottish cases” has the meaning given by an Order in Council under this paragraph;
  - a “Scottish tribunal” means a tribunal in Scotland –
    - (a) that does not have functions in or as regards any other country or territory, except for purposes ancillary to its functions in or as regards Scotland, and 25
    - (b) that is not, and does not have as a member, a member of the Scottish Government;
  - “specified” means specified by an Order in Council under this paragraph. 30
- (12) The powers conferred by this paragraph do not affect the powers conferred by section 30 or section 113.” 30
- I (2) In paragraph 1(2) of Schedule 7 [to that Act](#) (procedure for subordinate legislation) at the appropriate place insert –
- “Schedule 5, Part 3, paragraph 2A | Type A” 35
- (3) Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the Act applies) is amended as follows. 40



## (4) Before paragraph 9A insert –

“Company names	9ZA Company names adjudicators appointed under section 70(1) of the Companies Act 2006.”	5
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## (5) In paragraph 34 (patents, designs and trademarks) –

(a) the words from “the Comptroller-General” to the end become sub-paragraph (a), and 10

(b) after that sub-paragraph insert –

“(b) a person appointed under section 27A(1)(a) of the Registered Designs Act 1949;

(c) a person appointed under section 77(1) of the Trade Marks Act 1994”.

(6) In section 7(2) of the Tribunals and Inquiries Act 1992 (tribunals in relation to which section 7 does not apply) after “3,” insert “9ZA,”. 15

(7) In section 14(1)(a) of that Act (restricted application of Act in relation to certain tribunals) after “paragraph” insert “9ZA,”.

**34 Roads**

(1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section E1 (specific reservations: road transport) is amended as follows. 20

(2) In the reservation relating to the subject-matter of certain enactments, for paragraph (c) (reservation of subject-matter of section 17 and other provisions of the Road Traffic Regulation Act 1984) substitute –

“(c) section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) except so far as relating to the speed of vehicles on special roads, and section 87 of that Act (exemption of emergency vehicles from speed limits) so far as relating to vehicles used in connection with any other reserved matter or to the training of drivers of vehicles,”.	25
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(3) In the exception relating to the Road Traffic Act 1988, after “sections” insert “36 (offence of failing to comply with traffic sign),”.

(4) After that exception insert –

*“Interpretation*

The reference to the subject-matter of section 87 of the Road Traffic Regulation Act 1984 is to be construed as a reference to it as at the date when section 34 of the Scotland Act 2015 comes into force (and, accordingly, paragraph 5(1) of Part 3 of this Schedule does not apply to that reference).”	35
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**35 Roads: traffic signs etc**

(1) The Road Traffic Regulation Act 1984 is amended as follows. 40

- (2) In section 25(1) (Secretary of State to make pedestrian crossing regulations) for “Secretary of State” substitute “national authority”.
- (3) In section 64 (general provisions as to traffic signs) –
  - (a) in subsections (1) and (2) for “Secretary of State” substitute “national authority”,
  - (b) in subsection (1) for “Ministers acting jointly” substitute “national authority”,
  - (c) omit subsections (2A) to (2C), and
  - (d) omit subsections (7) and (8).
- (4) Section 65 (powers of traffic authorities as to placing of traffic signs) is amended as follows. 10
- (5) In subsection (1) omit “as may be given by the Ministers acting jointly”.
- (6) In subsections (1), (2), (3A)(ii) and (4) for “Secretary of State” substitute “national authority”.
- (7) In subsection (3) after “power” insert “of the Secretary of State”. 15
- (8) After that subsection insert –
  - “(3ZA) The power of the Scottish Ministers to give general directions under subsection (1) is to be exercisable by Scottish statutory instrument.
  - (3ZB) Before giving a general direction under subsection (1) the Secretary of State must consult with the Scottish Ministers. 20
  - (3ZC) Before giving a general direction under subsection (1) the Scottish Ministers must consult with the Secretary of State.”
- (9) In subsection (3A)(ii) after “prescribed” insert “in regulations made by the national authority”.
- (10) In section 69(3) (Secretary of State’s directions for removal of traffic signs) for “Secretary of State” substitute “national authority”. 25
- (11) In section 70(1) (default powers of Secretary of State as to traffic signs) –
  - (a) for “Secretary of State” substitute “national authority”,
  - (b) omit “himself”,
  - (c) omit “by him” in the first place,
  - (d) for “him”, in the second place, substitute “the national authority”, and
  - (e) after “the authority” insert “that failed to comply with the direction”. 30
- (12) In section 71(1) (power to enter land in connection with traffic signs) for “Secretary of State” substitute “national authority”.
- (13) In section 77 (modification of provisions relating to directions where Secretary of State is the traffic authority) for “Secretary of State”, in both places, substitute “national authority”.
- (14) Section 79 (advances by Secretary of State towards expenses of traffic signs) is amended as follows. 35
- (15) In subsection (1), for the words from “Secretary of State” to “Parliament,” substitute “national authority may”. 40

- (16) After subsection (1) insert –  
“(1A) An advance by the Secretary of State under this section is to be made out of moneys provided by Parliament.”
- (17) In subsections (3) and (5) for “Secretary of State” substitute “national authority”. 5
- (18) In section 142(1) (general interpretation) at the appropriate place insert –  
““national authority” –  
(a) in relation to roads in England and Wales, means the Secretary of State;  
(b) in relation to roads in Scotland, means the Scottish Ministers.”” 10
- (19) The Road Traffic Act 1988 is amended as follows.
- (20) Section 36 (offence of failing to comply with traffic sign) is amended as follows.
- (21) In subsections (1)(b) and (3)(a) for “Secretary of State” substitute “national authority”. 15
- (22) In subsection (5) for the words from “Secretary of State for the Environment” to “jointly” substitute “national authority”.
- (23) After subsection (5) insert –  
“(6) Before making regulations under subsection (5) the Secretary of State must consult with the Scottish Ministers. 20  
(7) Before making regulations under subsection (5) the Scottish Ministers must consult with the Secretary of State.  
(8) In this section “national authority” has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984.” 25
- (24) In section 195 (regulations) after subsection (4) insert –  
“(4ZA) Regulations made by the Scottish Ministers under section 36(5) are subject to the negative procedure.”
- 36 Roads: speed limits** 30
- (1) The Road Traffic Regulation Act 1984 is amended as follows.
- (2) Section 81 (speed limit for restricted roads) is amended as follows.
- (3) In subsection (2) –  
(a) for “Ministers acting jointly” substitute “national authority”, and  
(b) omit the words from “made” to “Parliament”. 35
- (4) After that subsection insert –  
“(3) An order under subsection (2) –  
(a) if made by the Secretary of State, is to be made by statutory instrument and approved by a resolution of each House of Parliament; 40  
(b) if made by the Scottish Ministers, is subject to the affirmative procedure.

- 
- (4) Before making an order under subsection (2) the Secretary of State must consult with the Scottish Ministers.
- (5) Before making an order under subsection (2) the Scottish Ministers must consult with the Secretary of State.” 5
- (5) In section 82 (what roads are restricted roads) –
- (a) in subsection (1)(b) for “Secretary of State” substitute “Scottish Ministers”, and
- (b) in subsection (3) for “prescribed manner” substitute “manner prescribed in regulations made by the national authority”. 10
- (6) Section 83 (provisions as to directions by a traffic authority under section 82(2)) is amended as follows.
- (7) In subsection (1) –
- (a) for “Secretary of State”, in both places, substitute “national authority”, and 15
- (b) for “his” substitute “the national authority’s”.
- (8) Section 84 (speed limits on roads other than restricted roads) is amended as follows.
- (9) In subsections (1A) and (1B) for “Secretary of State” substitute “national authority”. 20
- (10) Section 85 (traffic signs for indicating speed restrictions) is amended as follows.
- (11) In the following places, for “Secretary of State” substitute “national authority” –
- (a) subsection (1),
- (b) subsection (2)(a) and (b), 25
- (c) subsection (3), and
- (d) subsection (5A).
- (12) In subsection (1) for “he” substitute “the national authority”.
- (13) In subsection (3) –
- (a) omit “himself”,
- (b) omit “by him” in the first place, and 30
- (c) for “him”, in the second place, substitute “the national authority”.
- (14) In subsection (5A) omit the words from “or, where” to “officer of the Scottish Ministers”.
- (15) In subsection (7) after “power” insert “of the Secretary of State”. 35
- (16) After subsection (7) insert –
- “(8) The power of the Scottish Ministers to give general directions under subsection (2) is to be exercisable by Scottish statutory instrument.
- (9) Before giving any general directions under subsection (2) the Secretary of State must consult with the Scottish Ministers.
- (10) Before giving any general directions under subsection (2) the Scottish Ministers must consult with the Secretary of State.” 40

- (17) In section 87 (exemption of emergency vehicles from speed limits) (as amended by section 19 of the Road Safety Act 2006) –
- (a) in paragraph (b) of subsection (1) for “prescribed purposes” substitute “purposes prescribed by regulations made by the relevant authority”,
  - (b) in that paragraph after “may be” insert “so”, 5
  - (c) in subsection (2)(a) for “this section” substitute “subsection (3)”,
  - (d) in subsection (4) for “The regulations”, in the first place, substitute “Regulations under subsection (3)”,
  - (e) in subsection (5) for “The regulations”, in the first place, substitute “Regulations under subsection (3)”,
  - (f) in subsection (6) for “The regulations” substitute “Regulations under subsection (3)”, and 10
  - (g) at the end insert –
    - “(7) In this section “relevant authority” –
    - (a) in relation to vehicles used on roads in Scotland, except vehicles used in connection with reserved matters (within the meaning of the Scotland Act 1998), means the Scottish Ministers, 15
    - (b) otherwise, means the Secretary of State.”

### 37 Roads: consequential provision etc

- (1) Schedule 2 (roads: consequential and related amendments) has effect.
- (2) The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) has effect in relation to the Road Traffic Regulation Act 1984 and the Road Traffic Act 1988 as if the amendments of those Acts by sections 35 and 36 and Schedule 2 were in force immediately before the commencement of the Order. 20

### 38 Policing of railways and railway property

- (1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section E2 (specific reservations: rail transport) is amended as follows. 25
- (2) Under the heading “Exceptions”, after the exception relating to the promotion and construction of railways insert –
  - “Policing of railways and railway property.”
- (3) Under the heading “Interpretation”, after the definition of “railway” insert – 30
  - ““Railway property” has the meaning given by section 75(3) of the Railways and Transport Safety Act 2003.”

### 39 British Transport Police: cross-border public authorities

- (1) The following are cross-border public authorities for the purposes of the Scotland Act 1998 (“the 1998 Act”) – 35
  - (a) the British Transport Police Authority;
  - (b) the Chief Constable of the British Transport Police Force;
  - (c) the deputy Chief Constable of the British Transport Police Force;
  - (d) the assistant Chief Constables of the British Transport Police Force.

- (2) In relation to those cross-border public authorities the reference in section 88(3) of the 1998 Act to a pre-commencement enactment is to be read as a reference to the Railways and Transport Safety Act 2003.
- (3) Except as provided by subsection (2), the 1998 Act applies in relation to the cross-border public authorities mentioned in subsection (1) in the same way as it applies in relation to cross-border public authorities specified in an Order in Council under section 88(5) of the 1998 Act. 5

#### 40 Onshore petroleum

- (1) Section D2 in Part 2 of Schedule 5 to the Scotland Act 1998 (oil and gas) is amended as follows. 10
- (2) In the Exceptions, before “The manufacture of gas.” insert –  
“The granting of licences to search and bore for and get petroleum within the Scottish onshore area, except for any consideration payable for such licences. 15  
Access to such petroleum within the Scottish onshore area.”
- (3) After the Exceptions insert –  
“*Interpretation*  
The Scottish onshore area is the area of Scotland that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea). 20  
“Petroleum” means petroleum within the meaning given by section 1 of the Petroleum Act 1998 in its natural state in strata.” 25

#### 41 Onshore petroleum: consequential amendments

- (1) The Petroleum Act 1998 is amended as follows.
- (2) Section 3 (licences to search and bore for and get petroleum) is amended as follows. 30
- (3) In subsection (1) –
  - (a) for “Secretary of State” substitute “appropriate Minister”;
  - (b) for “he” substitute “the appropriate Minister”.
- (4) In subsection (3) for “Secretary of State” in the second place substitute “appropriate Minister”. 35
- (5) After subsection (4) insert –  
“(5) In this Part “the appropriate Minister” means –
  - (a) in relation to the Scottish onshore area, the Scottish Ministers;
  - (b) otherwise, the Secretary of State.”
- (6) Section 4 (licences: further provisions) is amended as follows. 40
- (7) In subsection (1) for “the Secretary of State” substitute “the appropriate Minister”.

- (8) After that subsection insert –
- “(1A) In relation to licences granted by the Scottish Ministers, regulations made by the Secretary of State under subsection (1)(e) may include model clauses on the consideration payable for a licence and the following (insofar as they relate to such consideration) – 5
- (a) the measurement of petroleum obtained from the licensed area (including the facilitation of such measurement), and
- (b) the keeping of accounts.
- (1B) Regulations made by the Scottish Ministers under subsection (1)(e) may not include model clauses on the matters mentioned in subsection (1A).” 10
- (9) In subsection (3) for “Any such regulations” substitute “Any regulations made by the Secretary of State”.
- (10) After that subsection insert –
- “(3A) Any regulations made by the Scottish Ministers shall be subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).” 15
- (11) After subsection (4) insert –
- “(4A) As soon as practicable after granting a licence under section 3, the Scottish Ministers shall publish notice of the fact in the Edinburgh Gazette stating – 20
- (a) the name of the licensee; and
- (b) the situation of the area in respect of which the licence has been granted.”
- (12) In section 5(9) (existing licences) for “the Secretary of State” in each place substitute “the appropriate Minister”. 25
- (13) In section 5A (rights transferred without consent) for “the Secretary of State” in each place substitute “the appropriate Minister”.
- (14) In section 5B(1) (information) for “the Secretary of State” in each place substitute “the appropriate Minister”.
- (15) In section 7 (ancillary rights) in subsection (2) – 30
- (a) at the end of paragraph (b) omit “and”, and
- (b) at the end of paragraph (c) insert “; and
- (d) references to the Minister in section 4 of that Act included the Scottish Ministers in relation to licences granted in relation to the Scottish onshore area.” 35
- (16) In section 8 (power to inspect plans of mines) for “the Secretary of State” in each place substitute “the appropriate Minister”.
- (17) After section 8 insert –
- “8A Scottish onshore area**
- (1) The Scottish onshore area is the area of Scotland that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea). 40

- (2) In subsection (1) “Scotland” has the same meaning as in the Scotland Act 1998.”
- (18) In section 188(12) of the Energy Act 2004, in the substituted subsection (7A), before paragraph (a) insert –  
“(za) Part 1 of the Petroleum Act 1998,”.
- (19) The Oil Taxation Act 1975 is amended as follows. 5
- (20) In section 12(1A)(a)(ii) (authorities that can revoke licences) after “Secretary of State” insert “, the Scottish Ministers”.
- (21) In paragraph 1(2) of Schedule 1 (determination of oil fields) –  
(a) in paragraph (a) after “granted” insert “by the Secretary of State”;  
(b) after paragraph (a) insert – 10  
    “(aa) is the Scottish Ministers if the area is such that licences can be granted by the Scottish Ministers for all of it under Part 1 of the Petroleum Act 1998;  
    (ab) is the Secretary of State and the Scottish Ministers acting jointly if the area is such that licences can be granted for part of it by the Secretary of State and for part of it by the Scottish Ministers;”.
- (22) The Petroleum (Production) (Landward Areas) Regulations 1995 are amended as follows.
- (23) In regulation 2 (interpretation) after the entry for “principal licence” insert –  
    ““Scottish onshore area” has the meaning given by section 8A of the Petroleum Act 1998;”. 20
- (24) In regulation 3 (application of the regulations) at the beginning of paragraph (1) insert “Subject to paragraph (1A),”.
- (25) After that paragraph insert –  
    “(1A) These regulations do not apply to applications for licences to search and bore for, and get, petroleum within the Scottish onshore area.” 25

## 42 Onshore petroleum: existing licences

- (1) The Secretary of State may make any amendment that appears to the Secretary of State to be necessary or expedient in consequence of section 40 – 30  
(a) in any model clause, to the extent that, under Part 1 of the Petroleum Act 1998, it is incorporated, or has effect as if incorporated, in an existing licence, and  
(b) in any other provision of an existing licence.
- (2) The power to make amendments under subsection (1)(a) is exercisable by regulations made by statutory instrument. 35
- (3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section “existing licence” means a licence granted, before the commencement of section 40, under – 40  
(a) section ~~2~~3 of the Petroleum Act 1998, or  
(b) section 2 of the Petroleum (Production) Act 1934,



in respect of an area all or part of which is within the Scottish onshore area, within the meaning given by Section D2 of Part 2 of Schedule 5 to the Scotland Act 1998.

<b>43</b>	<b>Consumer advocacy and advice</b>	5
(1)	Part 2 of Schedule 5 to the Scotland Act 1998 (specific reservations) is amended as follows.	
(2)	In Section C7 (consumer protection) –	
	(a) for the heading “Exception” substitute “Exceptions”;	10
	(b) after that heading insert –	
	“The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(3)	In Section C8 (product standards, safety and liability) after the heading “Exceptions” insert –	15
	“The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(4)	In Section C9 (weights and measures) after the reservations insert –	
	<i>“Exceptions</i>	20
	The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(5)	In Section C11 (posts) –	
	(a) for the heading “Exception” substitute “Exceptions”;	
	(b) after that heading insert –	25
	“The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(6)	In Section D1 (electricity) –	
	(a) for the heading “Exception” substitute “Exceptions”;	
	(b) after the exception relating to the Environmental Protection Act 1990 insert –	30
	“The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(7)	In Section D2 (oil and gas), at the end of the exceptions insert –	35
	“The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.”	
(8)	In paragraph 3(2) of Part 3 of Schedule 5 to the Scotland Act 1998 (reserved bodies) at the end insert –	
	“(e) the Office of Communications,	40
	(f) the Gas and Electricity Markets Authority.”	
(9)	Section 8 of the Utilities Act 2000 (payments by licence holders relating to new arrangements) is amended as follows.	
(10)	In subsection (2) at the end insert “or to such proportion of such amounts as the Secretary of State considers reasonable in respect of the provision, in or as	

regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to gas or electricity consumers”.

- (11) Omit –
- (a) subsection (3A)(bb) and (cb); 5
  - (b) in subsections (3A)(da) and (db) the words “and Citizens Advice Scotland”;
  - (c) in subsection (3A)(f) the words “or Citizens Advice Scotland”;
  - (d) in subsection (3B)(a) the words “or Citizens Advice Scotland, as the case may be,”;
  - (e) in subsection (3C) the words “or Citizens Advice Scotland, or by them jointly,”; 10
  - (f) in subsection (4)(d) the words “or Citizens Advice Scotland”.
- (12) Section 51 of the Postal Services Act 2011 (consumer protection conditions) is amended as follows.
- (13) At the end of subsection (2)(c) omit “and” and insert – 15
- “(ca) to make payments relating to such proportion of such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to users of postal services, and”.
- (14) In subsection (6) after “(2)(c)” insert “, (ca)”. 20
- (15) Omit –
- (a) in subsection (2)(c) the words “, Citizens Advice Scotland”;
  - (b) the “and” at the end of subsection (2)(c);
  - (c) in subsection (4) the words “, Citizens Advice Scotland”;
  - (d) subsection (4)(d), (e) and (f); 25
  - (e) in subsection (4ZA)(b) the words “, Citizens Advice Scotland”.

#### **44 Functions exercisable within devolved competence: consumer advocacy and advice**

30

- (1) The Scotland Act 1998 (“the 1998 Act”) has effect, in relation to any function so far as exercisable within devolved competence by virtue of a provision of section 43, as if references to a “pre-commencement enactment” were to –
- (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment made before the relevant date, 35
  - (c) subordinate legislation under section 106 of the 1998 Act, to the extent that the legislation states that it is to be treated as a pre-commencement enactment,

but did not include the 1998 Act or this Act (or any amendment made by either of those Acts) ~~or (or, subject to paragraph (c))~~ an enactment comprised in subordinate legislation under either of those Acts.

- (2) In this section –
- (a) expressions used in the 1998 Act have the same meaning as in that Act;
  - (b) the relevant date is the date on which section 43 comes into force. 40

**45 Gaming machines on licensed betting premises**

- (1) In Section B9 in Part 2 of Schedule 5 to the Scotland Act 1998 (betting, gaming and lotteries) at the end insert –
- “Exception* 5  
In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).”
- (2) Section 172 of the Gambling Act 2005 (gaming machines) is amended as follows.
- (3) In subsection (11) for “Secretary of State” substitute “appropriate Minister”. 10
- (4) After that subsection insert –
- “(12) In subsection (11) “the appropriate Minister” means –
- (a) the Scottish Ministers, so far as, in the case of a betting premises licence in respect of premises in Scotland and not in respect of a track, the order varies – 15
- (i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or
- (ii) whether such machines are authorised;
- (b) otherwise, the Secretary of State.”
- (5) In section 355 of that Act (regulations, orders and rules) – 20
- (a) in subsection (1) after “the Secretary of State” insert “or the Scottish Ministers”, and
- (b) for subsections (9) and (10) substitute –
- “(9) Subsection (3) does not apply to regulations made by the Scottish Ministers (see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: functions ~~exercised~~ [exercisable](#) by Scottish statutory instrument). 25
- (10) Regulations made by the Scottish Ministers under a provision specified in subsection (4), or under section 285, and an order made by the Scottish Ministers under section 172, shall be subject to the affirmative procedure.
- (11) Any other regulations made by the Scottish Ministers under a provision of this Act shall be subject to the negative procedure.” 30
- (6) The amendments made by this section do not apply in relation to a betting premises licence issued before this section comes into force.

**PART 5**OTHER EXECUTIVE COMPETENCE 35**46 Gaelic Media Service**

- (1) In section 183A of the Broadcasting Act 1990 (membership of the Gaelic Media Service) – 40

- (a) in subsection (4) for “the Secretary of State and the Scottish Ministers” substitute “the Scottish Ministers”, and
  - (b) in subsection (6)(b) for “the Secretary of State with the agreement of the Scottish Ministers” substitute “the Scottish Ministers”.
- (2) Section 17(4) to (6) of the Scotland Act 2012 is repealed. 5
- 47 Commissioners of Northern Lighthouses**
- (1) Schedule 8 of the Merchant Shipping Act 1995 is amended as follows.
- (2) In paragraph 1(2) (Commissioners of Northern Lighthouses), after paragraph (e) insert – 10
- “(f) a person appointed by the Secretary of State (in addition to the person nominated under paragraph (d));
  - (g) a person appointed by the Scottish Ministers.”
- (3) In paragraph 2(2) (elections by the Commissioners) for “five” substitute “three”.
- (4) After paragraph 4 (Commissioners constituting quorum) insert – 15
- “4A (1) The Commissioners shall send to the Scottish Ministers a copy of any accounts that they have been required to provide under section 218.
  - (2) The Scottish Ministers shall lay those accounts before the Scottish Parliament.
  - (3) The Commissioners shall send to the Scottish Ministers any report made under section 198(4)(b) (reports on inspections). 20
  - (4) The Scottish Ministers shall lay any such report before the Scottish Parliament.”
- 48 Maritime and Coastguard Agency** 25
- (1) In section 1 of the Coastguard Act 1925 (transfer of the coastguard to the Board of Trade), at the end insert – 30
- “(3) The Secretary of State must consult the Scottish Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to activities of Her Majesty’s Coastguard in Scotland.
  - (4) In subsection (3) “Scotland” has the same meaning as in the Scotland Act 1998.”
- (2) In section 292 of the Merchant Shipping Act 1995 (general functions of the Secretary of State) after subsection (2) insert – 35
- “(3) The Secretary of State must consult the Scottish Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to the safety standards of ships in Scotland and protecting the health and safety of persons on them.
  - (4) In subsection (3) “Scotland” has the same meaning as in the Scotland Act 1998.” 40

**49 Rail: franchising of passenger services**

- (1) Section 25 of the Railways Act 1993 (public sector operators not to be franchisees) is amended as follows.
- (2) In the heading, at the beginning insert “England and Wales:”. 5
- (3) After subsection (2) insert –
- “(2A) Subsection (1) does not prevent a public sector operator from being a franchisee in relation to a Scottish franchise agreement.” 10
- (4) This section does not have effect in relation to any invitation to tender under section 26(2) of the Railways Act 1993 issued before the day on which this section comes into force.

**50 Fuel poverty: support schemes**

- (1) The Energy Act 2010 is amended as follows. 15
- (2) In section 9 (schemes for reducing fuel poverty) after subsection (1) insert –
- “(1A) In relation to Scotland, that is subject to section 14A (power of the Scottish Ministers to make schemes).” 20
- (3) After section 14 (regulations under Part 2: procedure) insert –
- “14A Power of the Scottish Ministers to make schemes under this Part**
- (1) The power by regulations under section 9 to make one or more schemes in relation to Scotland is exercisable by the Scottish Ministers and not, except as provided by this section, by the Secretary of State. 25
- (2) For the purposes of the exercise of that power by the Scottish Ministers, this Part applies –
- (a) as if references to the Secretary of State in sections 9, 10 and 14(1), (3) and (4) were references to the Scottish Ministers; 30
- (b) with the omission in section 9 of subsections (4), (9)(a), (c)(i), (v) and (vi) and (11);
- (c) as if in section 10(7) “Parliament” were “the Scottish Parliament”.
- (3) The power of the Scottish Ministers under section 9 does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters). 35
- (4) The Scottish Ministers may not make regulations under section 9 unless – 40
- (a) they have consulted the Secretary of State about the proposed regulations, and
- (b) the Secretary of State has agreed to the regulations being made.
- (5) Subsection (1) does not prevent the Secretary of State making a support scheme in relation to Scotland under section 9, or varying or revoking regulations made by the Scottish Ministers under that section, – 45
- (a) with the agreement of the Scottish Ministers, or
- (b) without their agreement, if subsection (6), (8) or (10) applies.
- (6) This subsection applies if – 50

- (a) a scheme in relation to England and Wales has been made, or the Secretary of State intends to make such a scheme, and
  - (b) the Secretary of State is satisfied, after consulting the Scottish Ministers, that, to ensure that a scheme in relation to Scotland is made with a corresponding scheme period, it is necessary for the Secretary of State to exercise the power under section 9 to make such a scheme. 5
- (7) In paragraph (b) of subsection (6) a “corresponding scheme period” means a scheme period beginning and ending at the same time as that specified or to be specified in the scheme mentioned in paragraph (a).
- (8) This subsection applies if it appears to the Secretary of State that a support scheme made in relation to Scotland is, alone or in conjunction with a scheme made or to be made in relation to England and Wales, likely to— 10
  - (a) cause detriment to the United Kingdom, or
  - (b) adversely affect the ability of the United Kingdom to comply with an international agreement or arrangement in relation to climate change or energy efficiency, 15and the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State.
- (9) In determining for the purposes of subsection (8), whether detriment is likely to be caused to the United Kingdom, considerations that the Secretary of State may take into account include the costs imposed on suppliers by virtue of schemes made, or to be made, by the Secretary of State and the Scottish Ministers under section 9. 20
- (10) This subsection applies if—
  - (a) the Secretary of State makes or intends to make changes to a support scheme which would result in a significant change in the costs incurred by suppliers in complying with the scheme, and 25
  - (b) the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State.
- (11) A request by the Secretary of State to the Scottish Ministers for the purposes of subsection (8) or (10)— 30
  - (a) must be in writing;
  - (b) must specify only modifications that appear to the Secretary of State to be necessary to prevent the effect mentioned in subsection (8)(a) or (b), or (as the case may be) to be necessary or expedient in view of the effect mentioned in subsection (10)(a); 35
  - (c) must specify the time within which the modifications are to be made, which must not be less than 2 months from the date of the request.
- (12) Where the Secretary of State makes a scheme in accordance with subsection (5), section 14(5) does not prevent the Secretary of State, by regulations under section 9, revoking any scheme made by the Scottish Ministers so far as it is inconsistent with the scheme made by the Secretary of State.” 40

- (4) Section 31 (orders and regulations) is amended as follows.
- (5) After subsection (1) insert –
- “(1A) Subsection (1) does not apply to regulations made by the Scottish Ministers (see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: [functions exercisable by Scottish statutory instrument](#)).” 5
- (6) After subsection (4) insert –
- “(4A) ~~Regulations made by the Scottish Ministers under section 9 are subject to the affirmative procedure.~~” 10
- “(4A) [Regulations made by the Scottish Ministers under section 9 are subject to the affirmative procedure \(see section 29 of the Interpretative and Legislative Reform \(Scotland\) Act 2010\).](#)”
- (7) In subsection (6) after “Regulations” insert “made by the Secretary of State”. 15
- (8) After subsection (6) insert –
- “(6A) Regulations made by the Scottish Ministers may impose obligations or confer functions on a person (including the Scottish Ministers).”
- (9) Where an amendment made by this section imposes a requirement to consult or to obtain consent, the requirement may be satisfied by consultation undertaken or consent obtained before this section comes into force. 20
- 51 Energy company obligations**
- (1) The Gas Act 1986 is amended as follows. 25
- (2) After section 33BC (promotion of reduction in carbon emissions) insert –
- “33BCA Scottish Ministers’ promotion of reductions in carbon emissions: gas suppliers** 30
- (1) Where the Secretary of State under section 33BC imposes on gas suppliers obligations to achieve a target within a specified period, the power to make orders under that section is exercisable by the Scottish Ministers for the purposes of those obligations imposed in relation to Scotland and not, except as provided by subsection (6), by the Secretary of State. 35
- (2) An obligation is imposed in relation to Scotland to the extent that measures to meet that obligation may be carried out in Scotland (disregarding any power to elect under section 103 of the Utilities Act 2000). 40
- (3) For the purposes of the exercise by the Scottish Ministers of the power to make an order under section 33BC, that section applies with the following modifications –
- (a) for subsection (1) there is substituted a power by order to specify how gas suppliers may meet their obligations to achieve the carbon emissions reduction target through measures carried out in Scotland; 45
- (b) subsections (1A), (3), (5)(a), (7)(a) and (10A) are omitted;

- (c) in subsection (2A) at the beginning of paragraph (b) there is inserted “where the Secretary of State has apportioned the overall carbon emissions reduction target under section 103(2A) of the Utilities Act 2000, and”;
  - (d) in subsection (11) “Citizens Advice” and “gas transporters” is omitted; 5
  - (e) in subsection (12), for the words from “shall not be made” to the end is substituted “is subject to the affirmative procedure”;
  - (f) in subsection (12A) for the words from “shall be subject to” to the end is substituted “is subject to the negative procedure”;
  - (g) for “Secretary of State” in each place is substituted with “Scottish Ministers”. 10
- (4) The power of the Scottish Ministers under section 33BC does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters). 15
- (5) The Scottish Ministers may not make an order under section 33BC unless –
  - (a) they have consulted the Secretary of State about the proposed order, and
  - (b) the Secretary of State has agreed to the order being made. 20
- (6) The power of the Secretary of State to make an order under section 33BC is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only –
  - (a) with the agreement of the Scottish Ministers, or 25
  - (b) without their agreement, if subsection (7) applies.
- (7) This subsection applies if it appears to the Secretary of State, in the case of obligations imposed in relation to Scotland (the “Scottish obligations”), taking into account any provision made by the Scottish Ministers, that the Scottish obligations are, alone or in conjunction with obligations imposed or to be imposed in relation to England and Wales, likely to –
  - (a) cause detriment to the United Kingdom,
  - (b) adversely affect the ability of the United Kingdom to comply with an international agreement or arrangement in relation to climate change or energy efficiency, or 35
  - (c) result in costs incurred by suppliers that are not broadly equivalent in relation to England and Wales and in relation to Scotland,and the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State. 40
- (8) In determining for the purposes of subsection (7), whether detriment is likely to be caused to the United Kingdom, considerations that the Secretary of State may take into account include the costs imposed on suppliers by virtue of obligations imposed or to be imposed by the Secretary of State under section 33BC or any provision made by the Scottish Ministers under that section. 45



- (9) A request by the Secretary of State to the Scottish Ministers for the purposes of subsection (7) –
- (a) must be in writing;
  - (b) must specify only modifications that appear to the Secretary of State to be necessary to prevent the effect mentioned in subsection (7)(a), (b) or (c);
  - (c) must specify the time within which the modifications are to be made, which must not be less than 2 months from the date of the request.”
- (3) After section 33BD (promotion of reduction in home-heating costs) insert –
- “33BDA Scottish Ministers’ promotion of reductions in home-heating costs: gas suppliers**
- (1) Where the Secretary of State under section 33BD imposes on gas suppliers obligations to achieve a target within a specified period, the power to make orders under that section is exercisable by the Scottish Ministers for the purposes of those obligations imposed in relation to Scotland and not, except as provided by subsection (6), by the Secretary of State.
- (2) An obligation is imposed in relation to Scotland to the extent that measures to meet that obligation may be carried out in Scotland (disregarding any power to elect under section 103A of the Utilities Act 2000).
- (3) For the purposes of the exercise by the Scottish Ministers of the power to make an order under section 33BD, that section applies with the following modifications –
- (a) for subsection (1) there is substituted a power by order to specify how gas suppliers may meet their obligations to achieve the home-heating cost reduction target through measures carried out in Scotland;
  - (b) subsection (3) is omitted;
  - (c) subsections (3), (5)(a), (7)(a) and (10A) of section 33BC as applied by subsection (4) are omitted;
  - (d) in subsection (2)(a) at the beginning of sub-paragraph (ii) there is inserted “where the Secretary of State has apportioned the overall home-heating cost reduction target under section 103A(3A) of the Utilities Act 2000, and”;
  - (e) in section 33BC(11) as applied by subsection (4) “Citizens Advice” and “gas transporters” is omitted;
  - (f) in section 33BC(12) as applied by subsection (4) for the words from “shall not be made” to the end is substituted “is subject to the affirmative procedure”;
  - (g) in section 33BC(12A) as applied by subsection (4) for the words from “shall be subject to” to the end is substituted “is subject to the negative procedure”;
  - (h) for “Secretary of State” in each place (including any references in section 33BC that apply by virtue of subsection (4)), is substituted “Scottish Ministers”.

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- (4) The power of the Scottish Ministers under section 33BD does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters).
- (5) The Scottish Ministers may not make an order under section 33BD unless – 5
- (a) they have consulted the Secretary of State about the proposed order, and
  - (b) the Secretary of State has agreed to the order being made.
- (6) The power of the Secretary of State to make an order under section 33BD is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only – 10
- (a) with the agreement of the Scottish Ministers, or
  - (b) without their agreement, if subsection (7) applies. 15
- (7) This subsection applies if it appears to the Secretary of State, in the case of obligations imposed in relation to Scotland (the “Scottish obligations”), taking into account any provision made by the Scottish Ministers, that the Scottish obligations are, alone or in conjunction with obligations imposed or to be imposed in relation to England and Wales, likely to – 20
- (a) cause detriment to the United Kingdom,
  - (b) adversely affect the ability of the United Kingdom to comply with an international agreement or arrangement in relation to climate change or energy efficiency, or 25
  - (c) result in costs incurred by suppliers that are not broadly equivalent in relation to England and Wales and in relation to Scotland,
- and the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State. 30
- (8) In determining for the purposes of subsection (7), whether detriment is likely to be caused to the United Kingdom, considerations that the Secretary of State may take into account include the costs imposed on suppliers by virtue of obligations imposed or to be imposed by the Secretary of State under section 33BD or any provision made by the Scottish Ministers under that section. 35
- (9) A request by the Secretary of State to the Scottish Ministers for the purposes of subsection (7) – 40
- (a) must be in writing;
  - (b) must specify only modifications that appear to the Secretary of State to be necessary to prevent the effect mentioned in subsection (7)(a), (b) or (c);
  - (c) must specify the time within which the modifications are to be made, which must not be less than 2 months from the date of the request.” 45
- (4) The Electricity Act 1989 is amended as follows.

(5) After section 41A (promotion of reduction in carbon emissions) insert –

**“41AA Scottish Ministers’ promotion of reductions in carbon emissions:  
electricity suppliers**

- (1) Where the Secretary of State under section 41A imposes on electricity suppliers obligations to achieve a target within a specified period, the power to make orders under that section is exercisable by the Scottish Ministers for the purposes of those obligations imposed in relation to Scotland and not, except as provided by subsection (6), by the Secretary of State. 5
- (2) An obligation is imposed in relation to Scotland to the extent that measures to meet that obligation may be carried out in Scotland (disregarding any power to elect under section 103 of the Utilities Act 2000). 10
- (3) For the purposes of the exercise by the Scottish Ministers of the power to make an order under section 41A, that section applies with the following modifications – 15
- (a) for subsection (1) there is substituted a power by order to specify how electricity suppliers may meet their obligations to achieve the carbon emissions reduction target through measures carried out in Scotland; 20
- (b) subsections (1A), (3), (5)(a), (7)(a) and (10A) are omitted;
- (c) in subsection (2A) at the beginning of paragraph (b) there is inserted “where the Secretary of State has apportioned the overall carbon emissions reduction target under section 103(2A) of the Utilities Act 2000, and” 25
- (d) in subsection (11) “Citizens Advice” and “electricity distributors” is omitted;
- (e) in subsection (12), for the words from “shall not be made” to the end is substituted “is subject to the affirmative procedure”;
- (f) in subsection (12A) for the words from “shall be subject to” to the end is substituted “is subject to the negative procedure”. 30
- (g) for “Secretary of State” in each place is substituted with “Scottish Ministers”.
- (4) The power of the Scottish Ministers under section 41A does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters). 35
- (5) The Scottish Ministers may not make an order under section 41A unless –
- (a) they have consulted the Secretary of State about the proposed order, and 40
- (b) the Secretary of State has agreed to the order being made.
- (6) The power of the Secretary of State to make an order under section 41A is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only – 45
- (a) with the agreement of the Scottish Ministers, or
- (b) without their agreement, if subsection (7) applies.

- (7) This subsection applies if it appears to the Secretary of State, in the case of obligations imposed in relation to Scotland (the “Scottish obligations”), taking into account any provision made by the Scottish Ministers, that the Scottish obligations are, alone or in conjunction with obligations imposed or to be imposed in relation to England and Wales, likely to – 5
- (a) cause detriment to the United Kingdom,
  - (b) adversely affect the ability of the United Kingdom to comply with an international agreement or arrangement in relation to climate change or energy efficiency, or 10
  - (c) result in costs incurred by suppliers that are not broadly equivalent in relation to England and Wales and in relation to Scotland,
- and the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State. 15
- (8) In determining for the purposes of subsection (7), whether detriment is likely to be caused to the United Kingdom, considerations that the Secretary of State may take into account include the costs imposed on suppliers by virtue of obligations imposed or to be imposed by the Secretary of State under section 41A or any provision made by the Scottish Ministers under that section. 20
- (9) A request by the Secretary of State to the Scottish Ministers for the purposes of subsection (7) –
- (a) must be in writing;
  - (b) must specify only modifications that appear to the Secretary of State to be necessary to prevent the effect mentioned in subsection (7)(a), (b) or (c); 25
  - (c) must specify the time within which the modifications are to be made, which must not be less than 2 months from the date of the request.” 30
- (6) After section 41B (promotion of reduction in home-heating costs) insert –
- “41BA Scottish Ministers’ promotion of reductions in home-heating costs: electricity suppliers**
- (1) Where the Secretary of State under section 41B imposes on electricity suppliers obligations to achieve a target within a specified period, the power to make orders under that section is exercisable by the Scottish Ministers for the purposes of those obligations imposed in relation to Scotland and not, except as provided by subsection (6), by the Secretary of State. 35 40
  - (2) An obligation is imposed in relation to Scotland to the extent that measures to meet that obligation may be carried out in Scotland (disregarding any power to elect under section 103A of the Utilities Act 2000).
  - (3) For the purposes of the exercise by the Scottish Ministers of the power to make an order under section 41B, that section applies with the following modifications – 45
    - (a) for subsection (1) there is substituted a power by order to specify how electricity suppliers may meet their obligations to

- achieve the home-heating cost reduction target through measures carried out in Scotland;
- (b) subsection (3) is omitted;
  - (c) subsections (3), (5)(a), (7)(a) and (10A) of section 41A as applied by subsection (4) are omitted; 5
  - (d) in subsection (2)(a) at the beginning of sub-paragraph (ii) there is inserted “where the Secretary of State has apportioned the overall home-heating costs reduction target under section 103A(3A) of the Utilities Act 2000, and”;
  - (e) in section 41A(11) as applied by subsection (4) “Citizens Advice” and “electricity distributors” is omitted; 10
  - (f) in section 41A(12) as applied by subsection (4) for the words from “shall not be made” to the end is substituted “is subject to the affirmative procedure”;
  - (g) in section 41A(12A) as applied by subsection (4) for the words from “shall be subject to” to the end is substituted “is subject to the negative procedure”;
  - (h) for “Secretary of State” in each place (including any references in section 41A that apply by virtue of subsection (4)), is substituted “Scottish Ministers”. 15
- (4) The power of the Scottish Ministers under section 41B does not include power to make provision in relation to the subject matter of sections 88 to 90 of the Energy Act 2008 (smart meters). 20
- (5) The Scottish Ministers may not make an order under section 41B unless –
- (a) they have consulted the Secretary of State about the proposed order, and
  - (b) the Secretary of State has agreed to the order being made.
- (6) The power of the Secretary of State to make an order under section 41B is exercisable so as to make any provision that may be made by the Scottish Ministers under that section, or vary or revoke an order made by the Scottish Ministers under that section, but only – 25
- (a) with the agreement of the Scottish Ministers, or
  - (b) without their agreement, if subsection (7) applies. 30
- (7) This subsection applies if it appears to the Secretary of State, in the case of obligations imposed in relation to Scotland (the “Scottish obligations”), taking into account any provision made by the Scottish Ministers, that the Scottish obligations are, alone or in conjunction with obligations imposed or to be imposed in relation to England and Wales, likely to – 35
- (a) cause detriment to the United Kingdom,
  - (b) adversely affect the ability of the United Kingdom to comply with an international agreement or arrangement in relation to climate change or energy efficiency, or 40
  - (c) result in costs incurred by suppliers that are not broadly equivalent in relation to England and Wales and in relation to Scotland,
- and the Scottish Ministers have failed to comply with a request made to them by the Secretary of State to make modifications specified by the Secretary of State. 45

- (8) In determining for the purposes of subsection (7), whether detriment is likely to be caused to the United Kingdom, considerations that the Secretary of State may take into account include the costs imposed on suppliers by virtue of obligations imposed or to be imposed by the Secretary of State under section 41B or any provision made by the Scottish Ministers under that section. 5
- (9) A request by the Secretary of State to the Scottish Ministers for the purposes of subsection (7) –
- (a) must be in writing;
  - (b) must specify only modifications that appear to the Secretary of State to be necessary to prevent the effect mentioned in subsection (7)(a), (b) or (c); 10
  - (c) must specify the time within which the modifications are to be made, which must not be less than 2 months from the date of the request.” 15
- (7) Where an amendment made by this section imposes a requirement to consult or to obtain consent, the requirement may be satisfied by consultation undertaken or consent obtained before this section comes into force.

## 52 Apportionment of targets

- (1) The Utilities Act 2000 is amended as follows. 20
- (2) Section 103 (overall carbon emissions reduction targets) is amended as follows.
- (3) After subsection (2) insert –
- “(2A) Where an overall target applies in relation to a section mentioned in subsection (1) the order specifying the target may make provision for the target to be apportioned between – 25
- (a) measures carried out in England and Wales, and
  - (b) measures carried out in Scotland,
- by reference to such criteria as may be specified in the order.”
- (4) After subsection (3) insert – 30
- “(3A) Where a target is apportioned under subsection (2A) for the purposes of a section, an order under that section may include provision for a supplier to elect, subject to any conditions specified in the order, –
- (a) that, for the purposes of meeting the carbon emissions reduction target under an obligation imposed by the order in relation to England and Wales, a measure carried out in Scotland is to be treated instead as carried out in England and Wales; 35
  - (b) that, for the purposes of meeting the carbon emissions reduction target under an obligation imposed by the order in relation to Scotland, a measure carried out in England and Wales is to be treated instead as carried out in Scotland. 40
- (3B) An order under subsection (2A) may not make provision under subsection (3A)(b) unless the Scottish Ministers have agreed to such provision being made.”
- (5) Section 103A (overall home-heating cost reduction targets) is amended as follows. 45

- (6) After subsection (3) insert –
- “(3A) Where an overall target applies in relation to a section mentioned in subsection (1) the order specifying the target may make provision for the target to be apportioned between –
- (a) measures carried out in England and Wales, and
  - (b) measures carried out in Scotland,
- by reference to such criteria as may be specified in the order.” 5
- (7) After subsection (4) insert –
- “(4A) Where a target is apportioned under subsection (3A) for the purposes of a section, an order under that section may include provision for a supplier to elect, subject to any conditions specified in the order, –
- (a) that, for the purposes of meeting the home-heating cost reduction target under an obligation imposed by the order in relation to England and Wales, a measure carried out in Scotland is to be treated instead as carried out in England and Wales; 10
  - (b) that, for the purposes of meeting the home-heating cost reduction target under an obligation imposed by the order in relation to Scotland, a measure carried out in England and Wales is to be treated instead as carried out in Scotland. 15
- (4B) An order under subsection (3A) may not make provision under subsection (4A)(b) unless the Scottish Ministers have agreed to such provision being made.” 20
- (8) Section 103B (power to require information) is amended as follows.
- (9) In the heading after “Secretary of State” insert “and the Scottish Ministers”.
- (10) In subsection (1) at the beginning insert “subject to subsection (1A),” and after that subsection insert – 25
- “(1A) The Scottish Ministers may exercise the power in subsection (1)(b) and (c) in order to require information to review the operation of any carbon emissions reduction order or home-heating cost reduction order made by the Scottish Ministers and to establish and maintain a measures record in relation to such orders.” 30
- (11) In subsection (2) –
- (a) after the first “Secretary of State” insert “or the Scottish Ministers”, and
  - (b) after the second “Secretary of State” insert “and the Scottish Ministers”.
- (12) After subsection (6) insert – 35
- “(6A) Information obtained by virtue of subsection (1A) may be disclosed by the Scottish Ministers –
- (a) to the Secretary of State;
  - (b) to the Welsh Ministers for the purpose of enabling them to review the operation and effect in Wales of a carbon emissions reduction order or home-heating cost reduction order.” 40
- (13) In section 105 (general restrictions on disclosure of information), subsection (3) is amended as follows.

- (14) After paragraph (a) insert –
- “(za) it is made for the purpose of facilitating the performance by a body specified as the Administrator under an order under section 33BC or 33BD of the Gas Act 1986 or under section 41A or 41B of the Electricity Act 1989 of its functions under that section and the order;”.

### 53 Renewable electricity incentive schemes: consultation

In the Scotland Act 1998 after section 90B (inserted by section 31) insert – 10

#### *“Renewable electricity incentive schemes*

#### **“90C Renewable electricity incentive schemes: consultation**

- (1) The Secretary of State must consult the Scottish Ministers before – 15
  - (a) establishing a renewable electricity incentive scheme that applies in Scotland, or
  - (b) amending such a scheme as it relates to Scotland.
- (2) Subsection (1) does not apply to amendments that appear to the Secretary of State to be minor or made only for technical or administrative reasons; and the Secretary of State is not to be taken to establish or amend a scheme by exercising a power under a scheme, other than a power that is exercisable subject to any parliamentary procedure. 20
- (3) Subsection (1) does not require the Secretary of State to consult the Scottish Ministers about any levy in connection with a renewable electricity incentive scheme. 25
- (4) In this section a “renewable electricity incentive scheme” means any scheme, whether statutory or otherwise, that provides an incentive to generate, or facilitate the generation of, electricity from sources of energy other than fossil fuel or nuclear fuel. 30

This includes provision made by or under the following so far as they relate to the generation of electricity from sources of energy other than fossil fuel or nuclear fuel –

  - (a) sections 6 to 26 of the Energy Act 2013 (contracts for difference);
  - (b) sections 41 to 43 of the Energy Act 2008 (feed-in tariffs for small-scale generation of electricity);
  - (c) sections 32 to 32Z2 of the Electricity Act 1989 (renewables obligations or certificate purchase obligations). 35
- (5) Where, before the commencement of this section, the Secretary of State has consulted, or is consulting, the Scottish Ministers regarding a renewable electricity incentive scheme, that consultation is to be treated as fulfilling the obligation in subsection (1).” 40

### 54 Offshore renewable energy installations

- (1) The Energy Act 2004 is amended as follows.
- (2) Section 95 (safety zones around renewable energy installations) is amended as follows. 45



- (3) For subsection (1A) substitute –
- “(1A) In this section and section 96 the “appropriate Minister” means the Scottish Ministers, in relation to a renewable energy installation –
- (a) which is to be or is wholly in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone, and is not being or proposed to be extended outside those areas, 5
  - (b) to which paragraph (a) has ceased to apply because of an extension or proposed extension, if subsection (1B) applies, or
  - (c) to the extent that it is to be or is in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone, if paragraph (a) has ceased to apply because of an extension or proposed extension, and subsection (1B) does not apply, 10
- and otherwise means the Secretary of State (subject to section 13 of the Marine and Coastal Access Act 2009, which transfers certain functions of the Secretary of State to the Marine Management Organisation). 15
- (1B) This subsection applies if there is an agreement in force between the Secretary of State and the Scottish Ministers providing for the Scottish Ministers to be the appropriate Minister in relation to the whole of the installation.
- (1C) Where subsection (1B) applies, the Scottish Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.” 20
- (4) In subsections (2), (3) and (7) for “Secretary of State” in each place, substitute “appropriate Minister”.
- (5) After subsection (4) insert –
- “(4A) Before issuing a notice under this section which relates, wholly or partly, to an area outside the areas mentioned in subsection (4), the Scottish Ministers must consult the Secretary of State.” 25
- (6) Section 96 (prohibited activities in safety zones) is amended as follows.
- (7) In subsection (1)(b) and (3)(b) for “Secretary of State” substitute “appropriate Minister”. 30
- (8) In subsection (8) –
- (a) after “section” insert “ –
    - (a) if made by the Secretary of State,” 35
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (9) In section 105 (requirement to prepare decommissioning programmes) after subsection (1) insert – 40
- “(1A) In this Chapter “appropriate Minister” –
- (a) in relation to a renewable energy installation, means the Scottish Ministers –
    - (i) if the installation is to be or is wholly in an area of Scottish waters or an area of waters in a Scottish part of 45

- a Renewable Energy Zone, and is not being or proposed to be extended outside those areas,
- (ii) if sub-paragraph (i) has ceased to apply to the installation because of an extension or proposed extension, and subsection (1B) applies, or
  - (iii) to the extent that the installation is to be or is in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1B) does not apply;
- and otherwise means the Secretary of State;
- (b) in relation to an electric line which is or has been a related line, means –
    - (i) the Scottish Ministers, to the extent that the line is to be or is in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone;
    - (ii) otherwise, the Secretary of State.
- (1B) This subsection applies to an installation if there is an agreement in force between the Secretary of State and the Scottish Ministers providing for the Scottish Ministers to be the appropriate Minister in relation to the whole of the installation.
- (1C) Where subsection (1B) applies, the Scottish Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.”
- (10) In Chapter 3 (decommissioning of offshore installations), except in the provisions listed in subsection (11)), for “Secretary of State” in each place substitute “appropriate Minister”.
- (11) The provisions not amended by subsection (10) are –
- (a) sections 105(5), 106(2), 107(2), 108(7) and 111(6) (consultation of the Scottish Ministers);
  - (b) section 113(2) (proceedings in England and Wales or Northern Ireland).
- (12) In the provisions listed in subsection (11)(a) omit “wholly or”.
- (13) In section 111(7) (regulations about decommissioning) –
- (a) after “section” insert “ –
    - (a) if made by the Secretary of State,”
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (14) In section 112(7) (duty to inform Secretary of State: regulations) –
- (a) after “section” insert “ –
    - (a) if made by the Secretary of State,”
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (15) In section 114 (interpretation of Chapter 3) in subsection (2) before the

- definition of “decommissioning programme” insert –  
     ““appropriate Minister” has the meaning given by section 105(1A);”.
- (16) In section 192 (powers exercisable by statutory instrument) in subsection (4) after “Secretary of State” insert “, the Scottish Ministers”. 5
- (17) Schedule 16 (applications and proposals for notices under section 95) is amended as follows.
- (18) For “Secretary of State” in each place, except in paragraph 7, substitute “appropriate Minister”.
- (19) In paragraph 9 – 10
- (a) after “Schedule” insert “ –
- (a) if made by the Secretary of State,”
- (b) at the end insert “;
- (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (20) In section 13 of the Marine and Coastal Access Act 2009 (safety zones: functions under section 95 of the Energy Act 2004) omit subsection (7). 15
- 55 References to Competition and Markets Authority**
- In section 132(5) of the Enterprise Act 2002 (ministerial power to make references to Competition and Markets Authority: meaning of “appropriate Minister”) – 20
- (a) omit the “or” after paragraph (a), and
- (b) after paragraph (b) insert –
- “(c) the Scottish Ministers and the Secretary of State acting jointly; or
- (d) the Scottish Ministers, the Secretary of State and one or more than one other Minister of the Crown, acting jointly.” 25
- PART 6**
- MISCELLANEOUS 30
- 56 Gas and Electricity Markets Authority**
- (1) The Utilities Act 2000 is amended as follows.
- (2) In section 5 (annual and other reports of Authority) – 35
- (a) in subsection (5) omit “and” at the end of paragraph (a) and insert –
- “(aa) send a copy of the report to the Scottish Ministers, and”,
- and
- (b) after subsection (5) insert –
- “(5A) The Scottish Ministers shall lay a copy of each annual report before the Scottish Parliament.” 40

- (3) After section 5 insert –

**“5XA Laying of accounts before Scottish Parliament**

- (1) The Comptroller and Auditor General must send to the Authority, in respect of each of its accounting years, a copy of the certified accounts and report of the Authority no later than 15th January of the financial year following that to which the accounts relate. 5
- (2) The Authority must send to the Scottish Ministers, in respect of each of its accounting years, a copy of the certified accounts and report of the Authority no later than 31st January of the financial year following that to which the accounts relate.
- (3) The Scottish Ministers must lay a copy of whatever is sent to them under subsection (2) before the Scottish Parliament. 10
- (4) In subsections (1) and (2) “certified accounts and report” means those accounts certified under sections 5 and 7 of the Government Resources and Accounts Act 2000, and the report issued by the Comptroller and Auditor General under section 6(3)(a) of that Act.” 15

**57 Office of Communications**

- (1) Section 1 of the Office of Communications Act 2002 (the Office of Communications) is amended as follows.
- (2) In subsection (3) after paragraph (a) insert –  
“(aa) a member appointed by the Scottish Ministers;”.
- (3) After subsection (3) insert – 20  
“(3A) Before appointing a member under subsection (3)(aa) the Scottish Ministers must consult the Secretary of State.”
- (4) After subsection (10) insert –  
“(11) Paragraphs 1 and 2 of the Schedule apply in relation to the appointment made under subsection (3)(aa) as if – 25  
(a) any reference to the Secretary of State was to the Scottish Ministers, and  
(b) after paragraph 2(6) there were inserted –  
“(7) Before the Scottish Ministers remove a person from office they must consult the Secretary of State.”” 30
- (5) The Schedule to the Office of Communications Act 2002 is amended as follows.
- (6) In paragraph 11(3) (accounts and audit) – 35  
(a) omit “and” at the end of paragraph (a), and  
(b) at the end of paragraph (b) insert “and  
(c) shall send a copy of the statement and of his report to the Scottish Ministers.”
- (7) After paragraph 11(3) insert – 40  
“(4) The Scottish Ministers shall lay a copy of the statement and report sent to them under sub-paragraph (3) before the Scottish Parliament.”

- (8) In paragraph 12 (annual report) –
- (a) in sub-paragraph (1) after “Secretary of State” insert “and the Scottish Ministers”, and
  - (b) after sub-paragraph (3) insert –
    - “(4) The Scottish Ministers shall lay a copy of every report sent to them under this paragraph before the Scottish Parliament.”

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- (9) In article 2(2) of the Public Appointments Order in Council 2014 (interpretation) in paragraph (a) of the definition of “appointing authority” after “as the case may be,” insert “the Scottish Ministers,”.

## 58 Bodies that may be required to attend before the Parliament

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- (1) The Scotland Act 1998 is amended as follows.
- (2) After section 23 insert –

### “23A Power to impose requirements on specific bodies

- (1) Section 23 applies in relation to requirements imposed on a person in connection with the discharge of the functions of a body mentioned in subsection (2) in relation to Scotland with the omission of –
  - (a) the words after paragraph (b) in subsection (1), and
  - (b) subsections (2) and (6).
- (2) The bodies are –
  - (a) the Commissioners of Northern Lighthouses,
  - (b) the Office of Communications, and
  - (c) the Gas and Electricity Markets Authority.”

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## PART 7

### GENERAL

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## 59 Subordinate legislation under functions exercisable within devolved competence

- (1) Schedule 2 to the Interpretation and Legislative Reform (Scotland) Act 2010 (“the 2010 Act”) (Scottish statutory instruments: transitional and consequential provision) has effect in relation to any function so far as exercisable within devolved competence by virtue of a provision of section 19, 20, 21, 22, 23, 26 or 43, as if references to a “pre-commencement enactment” were to –
  - (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment passed or made before the relevant date.
- (2) Schedule 3 to the 2010 Act (modification of pre-commencement enactments) has effect in relation to devolved subordinate legislation, where the function of making it is exercisable within devolved competence by virtue of a provision of section 19, 20, 21, 22, 23, 26 or 43, as if references to a “pre-commencement enactment” were to –
  - (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment passed or made before the relevant date.
- (3) In this section –

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- 
- (a) “devolved subordinate legislation” and “enactment” have the same meaning as in Part 2 of the 2010 Act;
- (b) references to the exercise of a function being within devolved competence are to be read in accordance with section 54 of the Scotland Act 1998;
- (c) in relation to a provision of section 19, 20, 21, 22, 23, 26 or 43, the relevant date for any purpose is the date on which the provision comes into force for that purpose. 5
- 60 Transfers of property etc to the Scottish Ministers 10**
- In section 60 of the Scotland Act 1998 (transfers to the Scottish Ministers), in subsection (3), after “this Act” insert “or the Scotland Act 2015”.
- 61 Transitional provision 15**
- (1) Nothing in a provision of this Act affects the validity of anything done by or in relation to a Minister of the Crown before the provision comes into force.
- (2) Anything (including legal proceedings) which is in the process of being done by or in relation to a Minister of the Crown at the time when a provision of this Act comes into force may, so far as it relates to a function transferred to the Scottish Ministers by virtue of that provision, be continued by or in relation to the Scottish Ministers. 20
- (3) Anything done (or which has effect as if done) by or in relation to a Minister of the Crown –
- (a) which is in force when a provision of this Act comes into force, and
- (b) which was done for the purposes of or in connection with a function transferred by virtue of that provision, 25
- has effect as if done by or in relation to the Scottish Ministers, so far as that is required for continuing its effect.
- (4) This section applies subject to any provision made by regulations under section 62.
- (5) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975. 30
- 62 Power to make consequential, transitional and saving provision**
- (1) The Secretary of State may by regulations make –
- (a) such consequential provision in connection with any provision of Part 1, 3, 4, 5 or 6, or 35
- (b) such transitional or saving provision in connection with the coming into force of any provision of Part 1, 3, 4, 5 or 6, as the Secretary of State considers appropriate.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify any of the following (whenever passed or made) – 40
- (a) an enactment or an instrument made under an enactment;
- (b) a prerogative instrument;
- (c) any other instrument or document.
- (3) Regulations under this section may make –

- 
- (a) different provision for different purposes or cases;
  - (b) provision generally or for specific cases;
  - (c) provision subject to exceptions;
  - (d) provision for the delegation of functions;
  - (e) transitional or saving provision.
- (4) Regulations under this section must be made by statutory instrument.
  - (5) A statutory instrument containing regulations under this section which includes provision amending or repealing any provision of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
  - (6) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (7) In this section –
    - “enactment” includes an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales and Northern Ireland legislation;
    - “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative;
    - “primary legislation” means –
      - (a) an Act of Parliament,
      - (b) an Act of the Scottish Parliament,
      - (c) a Measure or Act of the National Assembly for Wales, and
      - (d) Northern Ireland legislation.
  - (8) In Schedule 4 to the Scotland Act 1998 (enactments etc protected from modification), in paragraph 14, after “section 105” insert “or under section 62 of the Scotland Act 2015”.

## 63 Commencement

- (1) The following come into force on the day on which this Act is passed –
  - (a) section 1;
  - (b) section 31(1), (3), (4) and (7) to (10);
  - (c) this Part.
- (2) The other provisions of section 31 come into force on the date specified under section 90B(16) of the Scotland Act 1998 (transfer date for Crown Estate scheme).
- (3) Part 2 comes into force at the end of 2 months beginning with the day on which this Act is passed, subject to the provision made by that Part.
- (4) The following provisions come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument –
  - (a) Part 3;
  - (b) sections 40 to 42;
  - (c) sections 50 to 52;
  - (d) section 54.

- 
- (5) Regulations under subsection (4) may appoint different days for different purposes.
  - (6) The other provisions of this Act come into force at the end of 2 months beginning with the day on which this Act is passed.

**64 Short title**

This Act may be cited as the Scotland Act 2015.



## SCHEDULES

### SCHEDULE 1

Section 17

#### DISAPPLICATION OF UK AGGREGATES LEVY: FURTHER AMENDMENTS

- 1 Part 2 of The Finance Act 2001 (aggregates levy) is amended as follows.
- 2 (1) Section 17 (meanings of “aggregate” and “taxable aggregate”) is amended as follows. 5
- (2) In subsection (5) (aggregate that has already been subjected to a charge) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- (3) In subsection (7) (interpretation), in the definition of “highway”, omit “the Roads (Scotland) Act 1984 or”. 10
- 3 (1) Section 19 (commercial exploitation) is amended as follows.
- (2) In subsection (5) (interpretation of references to the exploitation of aggregate in the United Kingdom) for “the United Kingdom”, in both places, substitute “England, Wales or Northern Ireland”.
- (3) In subsection (7)(a) (mixing of aggregate in permitted circumstances) for “the United Kingdom” substitute “England, Wales or Northern Ireland”. 15
- 4 In section 20(1)(a) (originating sites) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- 5 (1) Section 24 (levy register) is amended as follows.
- (2) In subsection (3) (taxable activity for the purposes of the register) for “the United Kingdom” substitute “England, Wales or Northern Ireland”. 20
- (3) In subsection (6)(e) (registration of premises for landing of aggregate won from seabed) for “the United Kingdom”, in both places, substitute “England, Wales or Northern Ireland”.
- 6 In section 26(3) (offence of failing to provide security for levy) for “the United Kingdom” substitute “England, Wales or Northern Ireland”. 25
- 7 (1) Section 30 (credit for aggregates levy) is amended as follows.
- (2) In subsection (1) (cases where provision for credit may be made) –
- (a) in paragraph (a) (export of aggregate) after “United Kingdom” insert “, from a place in England, Wales or Northern Ireland,”, and 30
- (b) after paragraph (a) insert –
- “(aa) any of that aggregate is moved to Scotland, or to the sea adjacent to Scotland, in the form of aggregate;”.

- (3) After subsection (5) insert –
- “(6) In subsection (1)(aa) the reference to the sea adjacent to Scotland is to so much of the territorial sea adjacent to the United Kingdom as is to be treated as adjacent to Scotland for the purposes of the Scotland Act 1998 (see section 126(2) of that Act).” 5
- 8 In section 44(a) (destination of receipts collected or received in Great Britain) for “Great Britain” substitute “England and Wales”.
- 9 In section 48(1) (interpretation of Part 2) in the definition of “United Kingdom waters”, in paragraph (a), after “Kingdom”, insert “, except so much of that territorial sea as is to be treated as adjacent to Scotland for the purposes of the Scotland Act 1998 (see section 126(2) of that Act)”. 10
- 10 In Schedule 4 (registration), in paragraph 8(2) (interpretation of references to taxable activity), for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- 11 In Schedule 6 (evasion etc), in paragraph 4(1)(a) (preparations for evasion), for “the United Kingdom” substitute “England, Wales or Northern Ireland”. 15
- 12 (1) Schedule 7 (information and evidence etc) is amended as follows.
- (2) In paragraph 11(1) (power to take samples) for “the United Kingdom” substitute “England, Wales or Northern Ireland”.
- (3) In paragraph 15 (interpretation), in the definition of “connected activities” for “the United Kingdom” substitute “England, Wales or Northern Ireland”. 20
- 13 In Schedule 23 of the Finance Act 2011 (data-gathering powers of HMRC), in paragraph 25(a) (relevant data-holders in relation to aggregates levy), for “the United Kingdom” substitute “England, Wales or Northern Ireland”.

## SCHEDULE 2

Section 37 25

### ROADS: CONSEQUENTIAL AND RELATED AMENDMENTS

#### *Road Traffic Regulation Act 1984*

- 1 The Road Traffic Regulation Act 1984 is amended as follows.
- 2 (1) Section 15 (duration of orders etc under section 14) is amended as follows.
- (2) In subsection (3) – 30
- (a) for “Secretary of State”, in both places, substitute “national authority”, and
- (b) in paragraph (b) for “that authority” substitute “the authority that made the temporary order”.
- (3) In subsection (4) – 35
- (a) for “Secretary of State” substitute “national authority”,
- (b) omit “himself”,
- (c) for “he” substitute “the national authority”, and
- (d) for “that authority” substitute “the authority that made the temporary order”. 40

- 
- (4) In subsections (5), (6) and (7) for “Secretary of State”, in each place, substitute “national authority”.
- 3 (1) Section 16 (supplementary provision as to orders etc under section 14) is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “national authority”. 5
- (3) In subsection (2A) –
- (a) for “Secretary of State” substitute “national authority”, and
- (b) for “he” substitute “the national authority”.
- 4 In section 17 (traffic regulation on special roads) –
- (a) omit subsection (3ZD), and 10
- (b) omit paragraph (b) of subsection (3A) (and the “and” before it).
- 5 In section 24 (Secretary of State to establish crossings on certain roads) –
- (a) for “Secretary of State” substitute “national authority”, and
- (b) for “he”, in both places, substitute “the national authority”.
- 6 In section 25(6)(b) (meaning of “crossing” in section 25 includes a crossing established by Secretary of State under section 24) – 15
- (a) for “Secretary of State” substitute “national authority”, and
- (b) for “him” substitute “the national authority”.
- 7 In section 28 (stopping of vehicles at school crossings) for “Secretary of State”, in each place, substitute “national authority”. 20
- 8 In section 86 (speed limits for particular classes of vehicles) omit subsections (7) and (9).
- 9 In section 88 (temporary speed limits) omit subsection (7A).
- 10 In section 124(1)(purposes of Schedule 9 etc) in paragraphs (a) and (b) for “Secretary of State” substitute “national authority”. 25
- 11 (1) Section 131 (application of road traffic enactments to Crown roads) is amended as follows.
- (2) For “Secretary of State”, in each place, substitute “relevant authority”,
- (3) In subsection (1) for “him” substitute “the relevant authority”.
- (4) In subsection (2)(b) – 30
- (a) for “Secretary of State”, in both places, substitute “relevant authority”, and
- (b) for “him” substitute “the relevant authority”.
- (5) In subsection (2)(c) –
- (a) for “Secretary of State”, in each place, substitute “relevant authority”, and 35
- (b) for “the authority”, in both places, substitute “the appropriate Crown authority”.
- (6) After subsection (7) insert –
- “(8) In this section “relevant authority” – 40

- (a) in relation to functions under this section so far as exercisable within devolved competence (within the meaning of the Scotland Act 1998), means the Scottish Ministers;
- (b) otherwise, means the Secretary of State.”
- 12 (1) Section 134 (regulations) is amended as follows. 5
- (2) In subsection (1) –
- (a) for “State,” substitute “State or”, and
- (b) omit “, or on the Ministers acting jointly,”.
- (3) In subsection (2) –
- (a) omit “82(1)(b)”, 10
- (b) omit “, or the Ministers acting jointly as the case may be,”, and
- (c) for “or they think” substitute “thinks”.
- (4) After subsection (3) insert –
- “(3A) Before making regulations under section 25, 64 or 87(1)(b) the Secretary of State must consult with the Scottish Ministers.” 15
- (5) After subsection (5) insert –
- “(6) Regulations made by the Scottish Ministers under this Act (except section 86) are subject to the negative procedure.
- (7) Before making regulations under section 25, 64 or 87(1)(b) the Scottish Ministers must consult with the Secretary of State. 20
- (8) Before making regulations under this Act, except section 82(1)(b), the Scottish Ministers must consult with such representative organisations as they think fit.”
- 13 In section 142(1) (general interpretation) omit the definition of “the Ministers”. 25
- 14 (1) Part 1 of Schedule 9 (reserve powers of Secretary of State in relation to certain orders) is amended as follows.
- (2) In the heading to the Part for “Secretary of State” substitute “national authority”.
- (3) In paragraph 1 (directions in relation to certain orders) – 30
- (a) for “Secretary of State” substitute “national authority”, and
- (b) after “give to that” insert “authorised”.
- (4) In paragraph 2(b) (directions prohibiting certain orders) –
- (a) after “prohibiting the” insert “authorised”, and
- (b) for “Secretary of State” substitute “national authority”. 35
- (5) In paragraph 3(1) (power of Secretary of State to make order instead of authorised authority) –
- (a) for “Secretary of State” substitute “national authority”, and
- (b) after “as well as by the” insert “authorised”.
- (6) In paragraph 4 (arrangements for making order of Secretary of State effective etc) – 40
- (a) for “Secretary of State” substitute “national authority”,

- (b) for “him”, in each place, substitute “the national authority”, and  
(c) for “he”, in each place, substitute “the national authority”.
- (7) In paragraph 6(1) (transfer of operation of parking place to local authority from Secretary of State) –
- (a) for “Secretary of State”, in each place, substitute “national authority”, and  
(b) in paragraph (b) for “he” substitute “the national authority”. 5
- (8) In paragraph 7 (variation or revocation of order by Secretary of State), in sub-paragraph (1) –
- (a) for “Secretary of State” substitute “national authority”, and  
(b) for “he” substitute “national authority”. 10
- (9) In paragraph 8 (matters as to which Secretary of State is to be satisfied before making order) –
- (a) for “Secretary of State” substitute “national authority”,  
(b) for “he” substitute “the national authority”,  
(c) for “him” substitute “the national authority”, and  
(d) after “discharged by the” insert “authorised”. 15
- (10) In paragraph 9 (circumstances in which paragraph 8 does not apply) –
- (a) for “Secretary of State” substitute “national authority”,  
(b) for “he”, in both places, substitute “the national authority”, and  
(c) for “him” substitute “the national authority”. 20
- (11) For paragraph 12A (disapplication of Article 2 of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999) substitute –
- “12ZA A power conferred upon the Scottish Ministers by this Schedule, so far as it relates to the exercise of a power under this Act by virtue of section 22C, is exercisable only with the consent of the Secretary of State.” 25
- 15 (1) Part 2 of Schedule 9 (consent of Secretary of State to certain orders) is amended as follows.
- (2) In the heading to the Part for “Secretary of State” substitute “national authority”. 30
- (3) In paragraph 13(1) (cases where consent is required) for “Secretary of State”, in each place, substitute “national authority”.
- (4) Paragraph 15 (Secretary of State’s power to add to or remove from orders for which consent is required) is amended as follows. 35
- (5) In sub-paragraph (1) after “authorities” insert “in England and Wales”.
- (6) After paragraph 15 insert –
- “15A(1) The Scottish Ministers may by order add to or remove from the orders for which their consent is required by paragraph 13 such orders made by such traffic authorities in Scotland as the Scottish Ministers may specify in the order. 40
- (2) An order under this paragraph may provide for the consent of the Scottish Ministers to be required (or not to be required) for an

- order for such purposes or in such circumstances as the Scottish Ministers may see fit to specify in the order under this paragraph.
- (3) An order under this paragraph removing an order from the orders for which the consent of the Scottish Ministers is for the time being required is subject to the affirmative procedure. 5
- (4) Any other order under this paragraph is subject to the negative procedure.”
- (7) Paragraph 16 (consent to order with modifications) is amended as follows.
- (8) In sub-paragraph (1) – 10
- (a) for “to him for his” substitute “for”,
  - (b) after “Secretary of State” insert “or the Scottish Ministers”,
  - (c) omit “to him”, in the second place, and
  - (d) for “thinks” substitute “or they think”.
- (9) In sub-paragraph (2) – 15
- (a) for “Where” substitute “Sub-paragraph (3) applies where”,
  - (b) for “proposes” substitute “or the Scottish Ministers propose”,
  - (c) after “him”, in the first place, insert “or them”,
  - (d) omit “to him”, in the second place,
  - (e) for “he” substitute –
- “(3) The Secretary of State or the Scottish Ministers”, and 20
- (f) after “him”, in the third place, insert “or them”.
- (10) Paragraph 17 (general consent) is amended as follows.
- (11) In sub-paragraph (1) – 25
- (a) after “Secretary of State” insert “or the Scottish Ministers”, and
  - (b) omit “his”.
- (12) In sub-paragraph (2) after “order” insert “of the Secretary of State”.
- (13) After sub-paragraph (2) insert –
- “(3) Any order of the Scottish Ministers under this paragraph is subject to the negative procedure.”
- (14) In paragraph 18 (orders to be by statutory instrument) after “power” insert “of the Secretary of State”. 30
- 16 (1) Part 3 of Schedule 9 (procedure as to certain orders) is amended as follows.
- (2) In paragraph 20(1) (consultation) – 35
- (a) for “to the Secretary of State for his” substitute “for”, and
  - (b) omit “to the Secretary of State”, in the second place.
- (3) In paragraph 21 (regulations as to procedure for orders of local authorities) –
- (a) for “Secretary of State”, in each place, substitute “national authority”,
  - (b) for “him”, in both places, substitute “the national authority”, and
  - (c) for “he” substitute “the national authority”. 40
- (4) In paragraph 24 (regulations as to procedure for orders of Secretary of State etc) –

	(a) for “Secretary of State” substitute “national authority”,	
	(b) in the words before paragraph (a) for “him” substitute “the national authority”,	
	(c) in paragraph (b) for “he”, in both places, substitute “the national authority”, and	5
	(d) in the words after paragraph (b) after “or” insert “, where the national authority is the Secretary of State,”.	
(5)	Paragraph 26 (objections to exercise of reserve power under paragraph 2) is amended as follows.	
(6)	In sub-paragraph (1) for “Secretary of State” substitute “national authority”.	10
(7)	In sub-paragraph (2)–	
	(a) for “Secretary of State” substitute “national authority”,	
	(b) for “he” substitute “the national authority”, and	
	(c) for “him” substitute “the national authority”.	
17	(1) Part 4 of Schedule 9 (variation or revocation of certain orders) is amended as follows.	15
	(2) In paragraph 28 (power to vary or revoke order not affected by related exercise of a reserve power) after “Secretary of State” insert “or the Scottish Ministers”.	
	(3) In paragraph 29 (power to revoke an order under paragraph 7 not affected by paragraph 8)–	20
	(a) for “Secretary of State” substitute “national authority”, and	
	(b) omit “by him”.	
18	In Part 5 of Schedule 9 (consultation with traffic commissioners), in paragraph 32–	25
	(a) for “to the Secretary of State for his”, in the first place, substitute “for”, and	
	(b) omit “to the Secretary of State for his consent”, in the second place.	
<i>Road Traffic (Temporary Restrictions) Procedure Regulations 1992 (S.I. 1992/1215)</i>		
19	The Road Traffic (Temporary Restrictions) Procedure Regulations 1992 are amended as follows.	30
20	In regulation 9(1) (continuation of order by direction of Secretary of State) for “Secretary of State” substitute “national authority”.	
21	In regulation 15(5) (modification of regulation 9 in its application to Scotland) for “Secretary of State” substitute “national authority”.	35
<i>Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (S.I. 1997/2400)</i>		
22	The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 are amended as follows.	
23	(1) Part 1 (the Zebra, Pelican and Puffin Pedestrian Crossings Regulations) is amended as follows.	40

	(2) In regulation 3(1) (interpretation), in paragraph (a) of the definition of “crossing” for “Secretary of State” substitute “national authority”.	
	(3) In paragraph 1(1)(c) of Schedule 1 (authorisation of steady light to illuminate zebra crossing globe) for “Secretary of State” substitute “national authority”.	
24	(1) Part 2 (the Pelican and Puffin Pedestrian Crossings General Directions 1997) is amended as follows.	5
	(2) In direction 9 (approval of equipment relating to crossings) for “Secretary of State”, in each place, substitute “national authority”.	
	(3) In direction 10 (special directions) –	
	(a) in the title omit “by the Secretary of State”, and	10
	(b) in the words that follow for “Secretary of State” substitute “national authority”.	
<i>National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)</i>		
25	In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 –	15
	(a) in paragraph (e)(i) of the entry relating to the Road Traffic Regulation Act 1984 for ““the Ministers”” substitute ““the national authority””, and	
	(b) in paragraph (b) of the entry relating to the Road Traffic Act 1988 omit “for Wales”.	20
<i>Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 (S.I. 1999/1750)</i>		
26	The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 is amended as follows.	
27	In Schedule 1 (enactments conferring functions transferred to the Scottish Ministers) omit the entries relating to the following –	25
	(a) the Road Traffic Regulation Act 1984;	
	(b) the Road Traffic (Temporary Restrictions) (Procedure) Regulations 1992;	
	(c) the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997.	30
28	In Schedule 3 (enactments conferring functions to be exercised subject to agreement or consultation of Scottish Ministers) omit the entries relating to the following –	
	(a) the Road Traffic Regulation Act 1984;	35
	(b) the Road Traffic Act 1988, section 36(5).	
<i>Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113)</i>		
29	The Traffic Signs Regulations and General Directions 2002 are amended as follows.	
30	In Part 1 (the Traffic Signs Regulations 2002), in regulation 4 (interpretation), in the definition of “primary route” for “Secretary of State” substitute “national authority”.	40



- 31 (1) Part 2 (the Traffic Signs General Directions) is amended as follows.
- (2) In the following directions for “Secretary of State”, in each place, substitute “national authority” –
- (a) direction 7(3) (signs indicating effect of statutory prohibitions);
  - (b) direction 28(a) (signs for migratory toad crossings); 5
  - (c) direction 38(1) (temporary signs);
  - (d) direction 39(6)(c) (signs for road censuses);
  - (e) direction 57 (approvals relating to road studs);
  - (f) direction 58 (supplementary provision relating to approval of road studs). 10
- (3) In direction 56 (approval of types of sign and signals) –
- (a) in paragraph (3)(a) for “Secretary of State or the Scottish Ministers” substitute “national authority”, and
  - (b) in paragraphs (5) and (6) for “Secretary of State” substitute “national authority”. 15
- Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005 (S.I. 2005/849)*
- 32 In the Schedule to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005, in the entry relating to the Road Traffic Regulation Act 1984 – 20
- (a) in paragraph (a) for “sections 1 and 14” substitute “section 1”, and
  - (b) omit paragraph (d) (Schedule 9).

# Scotland Bill

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A

# B I L L

[AS AMENDED IN COMMITTEE]

To amend the Scotland Act 1998 and make provision about the functions of the Scottish Ministers; and for connected purposes.

*Presented by Secretary David Mundell  
supported by  
The Prime Minister,  
Mr Chancellor of the Exchequer,  
Secretary Theresa May,  
Secretary Michael Gove,  
Secretary Iain Duncan Smith,  
Secretary Amber Rudd,  
Secretary Patrick McLoughlin,  
Secretary Theresa Villiers,  
Secretary Stephen Crabb,  
Greg Hands and Damian Hinds.*

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*Ordered, by The House of Commons,  
to be Printed, ~~28 May~~ 6 July 2015.*

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