



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Wednesday 21 March 2018**

**Session 5**



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**Wednesday 21 March 2018**

**CONTENTS**

	<b>Col.</b>
<b>BUSINESS MOTION</b> .....	1
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
<b>UNITED NATIONS INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION</b> .....	2
<i>Motion debated—[Fulton MacGregor].</i>	
Fulton MacGregor (Coatbridge and Chryston) (SNP) .....	2
Annie Wells (Glasgow) (Con) .....	5
Tom Arthur (Renfrewshire South) (SNP).....	7
Anas Sarwar (Glasgow) (Lab) .....	8
Patrick Harvie (Glasgow) (Green) .....	10
Maurice Corry (West Scotland) (Con) .....	12
The Minister for International Development and Europe (Dr Alasdair Allan) .....	13
<b>PORTFOLIO QUESTION TIME</b> .....	16
<b>COMMUNITIES, SOCIAL SECURITY AND EQUALITIES</b> .....	16
Scottish Welfare Fund (Households Assisted in Renfrewshire South) .....	16
Universal Credit (Support for Recipients in Inverclyde).....	17
Loneliness and Social Isolation (South Scotland) .....	18
Universal Credit (Impact).....	18
Gender Equality (Promotion) .....	20
Inequality (People from Lower-income Backgrounds).....	21
Universal Credit (Impact of Income Tax Starter Rate) .....	23
United Nations International Day for the Elimination of Racial Discrimination .....	24
Period Poverty .....	25
Empty Homes (Private Sector) .....	26
International Covenant on Economic, Social and Cultural Rights (Incorporation) .....	27
Ministerial Working Group on Gypsy/Travellers (Meetings) .....	28
Universal Credit (Roll-out) .....	29
Social Security System (Support for Appeals) .....	30
<b>UK WITHDRAWAL FROM THE EUROPEAN UNION (LEGAL CONTINUITY) (SCOTLAND) BILL: STAGE 3</b> .....	32
<b>UK WITHDRAWAL FROM THE EUROPEAN UNION (LEGAL CONTINUITY) (SCOTLAND) BILL</b> .....	154
<i>Motion moved—[Michael Russell].</i>	
The Minister for UK Negotiations on Scotland’s Place in Europe (Michael Russell) .....	154
Adam Tomkins (Glasgow) (Con) .....	157
Neil Findlay (Lothian) (Lab) .....	159
Patrick Harvie (Glasgow) (Green) .....	161
Tavish Scott (Shetland Islands) (LD).....	163
Ivan McKee (Glasgow Provan) (SNP) .....	164
Murdo Fraser (Mid Scotland and Fife) (Con).....	166
Neil Bibby (West Scotland) (Lab) .....	168
Mike Rumbles (North East Scotland) (LD) .....	170
Ash Denham (Edinburgh Eastern) (SNP).....	171
James Kelly (Glasgow) (Lab) .....	172
Donald Cameron (Highlands and Islands) (Con) .....	174
Michael Russell.....	176
<b>BUSINESS MOTIONS</b> .....	180
<i>Motions moved—[Joe FitzPatrick]—and agreed to.</i>	
<b>PARLIAMENTARY BUREAU MOTIONS</b> .....	183
<i>Motions moved—[Joe FitzPatrick].</i>	
<b>DECISION TIME</b> .....	184

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## Scottish Parliament

Wednesday 21 March 2018

[The Deputy Presiding Officer opened the meeting at 13:15]

### Business Motion

**The Deputy Presiding Officer (Linda Fabiani):** The first item of business is consideration of business motion S5M-11152, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a stage 3 timetable for the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 to 3: 1 hour

Groups 4 and 5: 1 hour 30 minutes

Groups 6 to 8: 2 hours 25 minutes

Groups 9 to 15: 3 hours 50 minutes.—[Joe FitzPatrick]

*Motion agreed to.*

## United Nations International Day for the Elimination of Racial Discrimination

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a members' business debate on motion S5M-10173, in the name of Fulton MacGregor, on the United Nations international day for the elimination of racial discrimination. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises that 21 March 2018 is the UN International Day for the Elimination of Racial Discrimination; understands that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set out therein without distinction to race, colour or national origin; notes that racial inequality and racial discrimination continue to be prevalent and, at times, accepted in society, despite the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination nearly 53 years ago; condemns all forms of racism and racial discrimination in Scotland; notes that the UN has urged taking comprehensive measures to combat racism, racial discrimination, xenophobia and related intolerances; welcomes the publication of the Scottish Government's Race Equality Framework for Scotland 2016-2030 and the Race Equality Action Plan 2017-2021, and notes the calls for there to be regular updates on actions taken to fully eradicate racism and racial discrimination in Scotland.

13:16

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I thank colleagues from across the chamber for supporting the motion and allowing this important topic to be brought to the chamber today. It is worth putting on record my disappointment that the time for the debate has been brought forward. I know that needs must, given the impact of Brexit on everything, but I also know that the number of people who spoke to me about this debate prior to the change in the timing is not reflected by the number of people currently in the chamber.

I have had the pleasure of chairing the cross-party group in the Scottish Parliament on racial equality since it was reformed after the election in 2016. During that time, I have had the privilege of meeting and speaking with many people from around Scotland about the issues that are faced on a day-to-day basis by people from black and minority ethnic communities. I particularly thank the Coalition for Racial Equality and Rights for its support for the cross-party group and for its help in pursuing and securing this debate. I am delighted to note that many representatives from the cross-party group are in the public gallery, but I think that the number there has been affected by the change in the debate's timing. However, some have still

managed to come along and witness the issue being discussed in Scotland's Parliament.

Today marks the 52nd anniversary of the international day for the elimination of racial discrimination, which was established by the UN following the massacre of 69 people who were shot and killed by police at a peaceful demonstration in Sharpeville, South Africa, against apartheid laws. Since the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination in 1965, the United Kingdom, among 87 nations, has signed up to and committed to recognising the human rights and personal freedoms of all people, regardless of race, nationality or ethnicity. Major steps have been taken in the fight against racial discrimination since then, but how sad is it that, more than 50 years later, the problem has not been eradicated from our streets and workplaces?

Despite good progress, there is still a huge amount of work to be done to rid ourselves completely of racism, particularly casual racism, which occurs even among senior public figures, including politicians. In 2016, the UN Committee on the Elimination of Racial Discrimination called on Scotland to strengthen its commitments to those international ideals and recommended that the Scottish Government take steps to prevent hate crimes and racist bullying in schools; increase access to legal aid; improve the curriculum on the history of the British empire and colonialism, particularly with regard to slavery; and review stop-and-search powers in law enforcement. As a result, the Scottish Government recently published "A Fairer Scotland for All: Race Equality Action Plan 2017-21", which outlines the steps that the Scottish Government intends to take to promote racial equality in Scotland in a wide range of areas, from employment to housing and community cohesion and safety, to name but a few. I was grateful to the cabinet secretary for coming along to the most recent meeting of the cross-party group to update members on the plan.

Recognising racism and establishing a national approach to eliminating it in our society is a momentous step that I am sure that we can all support, particularly at a time when Lord Bracadale is undertaking a review into hate crime legislation in Scotland. In recent weeks, we have seen significant coverage of the racism that is experienced by elected officials in Scotland, who call on us to consider the reality of racism in not only our political system but wider Scottish society. If that is the sort of racist abuse faced by elected members, what must other members of ethnic and cultural minority communities be facing? For example, a report from the Crown Office and Procurator Fiscal Service shows that racial crimes were the most commonly reported hate crime in the past year, with 3,349 charges reported.

Although it would be easy to congratulate ourselves for having the lowest number of reported hate crimes in more than 10 years, that is 3,349 charges too many.

As elected representatives for a diverse range of people, it is important that we recognise that these issues are faced not only by members of minority ethnic communities. The CPG on racial equality in Scotland has focused its attention on matters such as poverty and the discrimination that is faced by Gypsy Travellers. Over recent weeks, there has been much discussion in the chamber about sectarianism in Scotland and how we should best tackle it.

There is much more to this picture. We need to look beyond to understand the inherent structures that perpetuate racism and prejudice in our society. A publication that examined the link between ethnicity and poverty in Scotland found that, overall, poverty is higher among ethnic minority groups than it is among the majority white population, and that there is a lack of inclusive services—including childcare—that take into account cultural and religious differences.

A report from the Equality and Human Rights Commission found that

"if you are born into an ethnic minority household today, you are nearly four times more likely to be in a household that is overcrowded and up to twice as likely to be living in poverty and experiencing unemployment."

Not only that, but people from ethnic minority communities with qualifications equal to their majority white counterparts face greater barriers to finding work that matches their qualifications. That is a waste of talent and completely unfair on the individuals concerned. Those inherent biases and injustices do nothing but hurt our society. As I have mentioned in the chamber previously, I am dealing with a constituency case that involves some of those problems.

At the end of the day, we are all Scottish people with various cultural and racial backgrounds. We are part of the grand tapestry of Scotland. Everyone is part of our inclusive national identity. We are all equal citizens who are united through our shared national identity. As members of Parliament, we must use our privilege as the voice of our constituents in towns, villages, cities and communities in Scotland to champion our nation as an international leader in challenging racial discrimination and progressing racial equality.

Scotland has a proud history of challenging racial discrimination and we must share the responsibility of carrying that work forward. The Scottish Parliament should strive to be a leading international voice in reinforcing the support of our institutions for a world that is founded in justice, equality and human rights. I am pleased that we

are taking steps to do that through the bold policies and legislation of the Government and through the formation of various cross-party groups, including the newly formed cross-party group on tackling Islamophobia, which is chaired by Anas Sarwar MSP.

One of my main hopes in life is that the generations that follow us, when looking at these matters during discussions on history, such as those that my children will have at school, will wonder why we ever thought that this was an issue. However, policies, legislation and cross-party groups on their own will never be enough to make that dream a reality. We all need to do our bit in an ever-changing world in which world leaders run campaigns about building barriers and walls, and in which Brexit threatens migration to our country.

I finish with the motto of BEMIS, which is one that I believe that we should all adopt: there is only one race, the human race, diverse in its glorious nature.

13:23

**Annie Wells (Glasgow) (Con):** I thank Fulton MacGregor for bringing this important topic to the chamber. I am pleased to have the opportunity to speak on the UN international day for the elimination of racial discrimination. Looking at this year's theme of promoting tolerance, unity and respect for diversity, I echo the sentiments of Fulton MacGregor by insisting that we must continue to fight for true racial equality.

Around one in eight people in this country are from Scotland's ethnic and cultural minority communities. Despite the fact that they are part and parcel of the country's make-up, gross inequalities still exist. For example, politically, just 1.2 per cent of our councillors are from an ethnic minority community and, economically, we know that the people from those communities remain clustered in lower-paid, part-time jobs.

Culturally, as we have seen from recent high-profile cases, Scotland is not immune from the everyday racism that we so desperately need to stamp out—from personal attacks online to the ignorant comments that are made in everyday conversation. In addressing those inequalities, I suggest that we must go back to basics. First and foremost, we must understand exactly where we are in terms of racial equality.

In December last year, I spoke in the debate on the Scottish Government's racial equality action plan, during which I highlighted the need for vastly improved data collection in Scotland. Currently, we are behind the curve with gaps across the board. Due to time, I am not able to name them all, but examples include: voter registration figures by

ethnicity, ethnicity of homicide victims, nationwide data on racist incidents in school, ethnicity pay gap figures and data on the uptake of mental health services based on ethnicity.

If Scotland is not to take part in the UK race disparity audit, I renew my call for a robust approach to improved Scotland-specific data and call on the Scottish Government to issue regular updates on how its equality evidence finder is progressing. Knowing the statistics and being honest about our current stalemate will shine a light on the disparities that exist, and will drive progress.

Racial discrimination transcends the bread-and-butter issues of life—education, employment and justice. That is why societal and cultural attitudes also require our undivided attention. Discrimination can be embedded in our language, through throwaway comments passed off as jokes and through as simple a thing as who we see on the big screen.

As the wording of the International Convention on the Elimination of All Forms of Racial Discrimination shows, the definition of racial discrimination extends to include restriction, distinction and exclusion from the cultural and social spheres, which creates an abundance of scenarios in which racial discrimination can be missed. I will give a brief idea of the areas on which we could focus.

Education is key to creating a positive example of how children can embrace an inclusive national identity from an early age. I am pleased that BEMIS is working with Education Scotland to embed race equality resources in the curriculum. As the organisation has highlighted, it is important that that approach extends beyond schools that have large ethnic and cultural minority communities.

Language, too, is paramount. That is why, in preparation for the debate, I have reflected on my own use of terms such as BME and questioned whether such abstract groupings can inadvertently create the impression of distance and otherness.

It is important that we have such discussions and think more broadly about how we go about creating an inclusive national identity that genuinely embraces everyone's cultural characteristics—from language to music—to create a positive picture of diversity. In doing so, we will shine a light on hidden discrimination and, I hope, bring about real societal change. I wholeheartedly wish us to work together as MSPs and parties to achieve that and I again thank Fulton MacGregor for bringing the debate to the Parliament.

13:28

**Tom Arthur (Renfrewshire South) (SNP):** I thank my colleague Fulton MacGregor for securing the debate and echo his frustration that we were not able to have it in the evening. However, it is important that it goes ahead.

As Fulton MacGregor outlined, the history of why we have the UN international day for the elimination of racial discrimination is well known: 21 March 1960 was, of course, the Sharpeville massacre—a massacre of people who were protesting against the egregious and horrific pass laws that were fundamental to the apartheid system in South Africa. It is appropriate that we are having this debate because 2018 is the 70th anniversary of the Universal Declaration of Human Rights. It is also the centenary year of the birth of Nelson Mandela and, indeed, the 25th anniversary of his visit to Glasgow.

I add my support to the Nelson Mandela Scottish Memorial Foundation, which is campaigning under the auspices of the legendary Brian Filling, our honorary consul for South Africa and a giant of the Scottish anti-apartheid movement. I lend my support to that campaign because it is incredibly important that we recognise Mandela's contribution. One of the great actions that we took in Scotland to challenge apartheid was to change the name of St George's Place to Nelson Mandela Place—of course, the South African consulate was located there.

That speaks to the broader issue of the structures of racism, which Fulton MacGregor mentioned. There are still literal, physical structures. Anyone who walks through Glasgow will see structures named Buchanan after Andrew Buchanan and Glassford after John Glassford. The magnificent properties that we see were financed by slavery, the most egregious form of exploitation and the most racist system that has ever existed. We must take cognisance of that. We must recognise Scotland's colonial history. We can sometimes be rather prone to slapping ourselves on the back and saying that we are all Jock Tamson's bairns, but the legacy is hard-wired into our architecture and history.

In my constituency of Renfrewshire South, Milliken Park is named after James Milliken, and there are places named after the McDowalls of Castle Semple in Lochwinnoch and the Houston family, all of whom have prominent connections to the slave trade. We need to address the lack of awareness of Scotland's history and connections among many people.

I want to pick up the point in the motion about the race equality action plan. Section 3 of that plan refers to health, which is important. It refers specifically to improving the uptake of HIV testing,

especially in the African community. As co-convenor of the cross-party group on sexual health and blood-borne viruses, I have met community workers and representatives of the African community who are doing tremendous work on that.

I highlight the importance of hepatitis C testing, which is a particular issue for our south Asian community. The Hepatitis C Trust suggests that the prevalence of hepatitis C in the south Asian community in the UK is 2 to 4 per cent, which is four to eight times higher than the figure for the rest of the population. That is an important issue to take into consideration, and I will highlight it in a members' business debate on the hepatitis C virus that I will have later this year.

Having considered Scotland's past in relation to colonialism and racism, we have to realise that this is a present-day issue. My colleague Humza Yousaf and Anas Sarwar have been subjected to horrific abuse, slurs and statements. I stand united with Anas Sarwar, Humza Yousaf and everyone else in opposing and deploring such actions and words.

In an age of vitriolic populism right across the globe in which we are seeing many communities, including migrant communities being targeted and being blamed for economic inequality, we must redouble our efforts to eliminate racism and its root causes.

13:32

**Anas Sarwar (Glasgow) (Lab):** I congratulate Fulton MacGregor on securing the debate, and I thank him for his work with the cross-party group on racial equality. I look forward to continuing that work with him through that CPG and through the CPG on tackling Islamophobia.

I take this opportunity to send a message of solidarity to all our diverse communities, here in Scotland and right across the world, who are victims of everyday prejudice, bias or abuse. The reality is that if we accept that everyday sexism and everyday homophobia exist in our country—which they do—we must also accept that everyday racism, everyday anti-semitism and everyday Islamophobia are real, too. In the vast majority of cases, that is not something criminal—it is not something that we can report to the police or something that someone can be charged with—but it still impacts on life chances, life opportunities and life outcomes. That is why we have to look at ourselves, our own individual behaviour and our Parliaments, local authorities and institutions to see what more we can do to challenge everyday prejudice in all its forms.

As others have said, we cannot leave that fight to individual communities. We cannot leave the



fight for gender equality to women, and we cannot leave the fight on lesbian, gay, bisexual and transgender rights to the LGBT community. In just the same way, we cannot leave the fight against anti-semitism, racism or Islamophobia to those individual communities. We have to see this as a collective fight for all of us if we are genuinely to eradicate it from our communities.

I have mentioned the impact in terms of criminality, but there is more of an impact in terms of access to education and educational outcomes, access to employment and the ability to pursue a career pathway and gain promotion, and access to public services. That is why, in setting up the cross-party group on tackling Islamophobia and after speaking about some of my own experiences, I have sent detailed proposals to the First Minister. I look forward to receiving a response to them.

This issue goes way beyond party politics. It is not an issue on which we are going to pick a fight with one another about our party colours, but one on which we have to be united as one, and we have to speak out against it. I want to raise an issue that has come up in the past 24 hours, because it is important that we say directly to all our institutions across Scotland, including political parties—my own and every other—national and local government, public services and other organisations, “Wake up! Everyday racism is real.” It is impacting people every day and none of us is immune to it.

In the past 24 hours, we have seen reports about a Clyde Football Club player who made racial comments against an Annan Athletic footballer at the beginning of January. Clyde has now put out a statement detailing what that player’s punishment will be. I want to repeat what he said—I apologise for the language that I am about to use.

**The Deputy Presiding Officer:** Please do not swear. You can metaphorically bleep.

**Anas Sarwar:** I will metaphorically bleep, then. At the start of the match, Ally Love, the Clyde FC footballer, said to Rabin Omar, a Dutch-born Iraqi Kurdish footballer, “Are you black or white?” During the game, he called Omar a P B—members can probably guess what I am referring to—and when he was challenged during the match, he replied, “Will it just be you, or are you going to bring your P pals?”

The referee and other players heard those comments and the incident was included in the match report. An investigation took place and the Scottish Football Association suspended Ally Love for five games. Managers get suspended for five games when they argue with the referee, and they are sent to the stand. This was a much more

severe incident and warranted a greater punishment than suspension for five games, but in the past 24 hours Clyde FC has said that it conducted its own investigation and the punishment that it decided on was to send Ally Love on diversity training.

I am sick to death of hearing of the use of diversity training as some kind of excuse or punishment. Diversity training should be mainstream for every one of us. Ally Love should be suspended by his club, if not expelled altogether. We have to send a message—particularly to our young people, who see footballers as role models—that the time is up for the expression of hateful views in the open and, indeed, in private. The time is up for all those people with hateful views. I look to my children to make sure that they do not grow up in a Scotland where racism exists, but we need to look to all our children to create a Scotland free from any form of hate or prejudice.

13:38

**Patrick Harvie (Glasgow) (Green):** I commend the speech that we have just heard from Anas Sarwar. As well as the powerful later part of his speech, he began by saying that we should express our solidarity and good wishes to the diverse communities of Scotland. As today is Newroz, the Kurdish new year, I offer special good wishes to Scotland’s Kurdish community. I also commend Fulton MacGregor for bringing the debate to the chamber, gaining cross-party support for it and giving us the opportunity to have a debate on the topic.

I acknowledge the work that is happening. The motion mentions the work that the Government is doing—the action plan, the framework and so on—and the minister will no doubt speak about that. Work is also being done on a cross-party basis through the CPG group on racial equality, and Anas Sarwar mentioned the CPG on Islamophobia that he has just initiated—a welcome addition to the cross-party work that happens.

Several of us in the chamber are also members of the cross-party group on Govanhill. It is worth reflecting on the level of community activism in places such as Govanhill—for example, the celebration of the Roma community both annually and throughout the year.

It is absolutely vital that communities get involved through vibrant community activism. This is not just about the response of politics, Government and public services. Local community leadership needs to be part of the response to the rising tide of racism and intolerance in our society—and it is a rising tide, regrettably.

Fulton MacGregor mentioned that Brexit impacts on everything that we do these days. This does not apply to everybody who voted leave, because there are some who are delusional enough to think that there is an economic argument in favour of the Brexit project, but it is worth saying very clearly that, for others, the project has fundamentally been a racist one, predicated on hostility to immigrants—or to people they perceive to be immigrants, even if they were born here—and intolerance towards migrant labour, asylum seekers and refugees. It has come on the back of years of racist rhetoric in parts of our press on those issues and against those people.

We know that the referendum result itself provoked and triggered an increase in hate crime—in particular, racist hate crime. I fear that we have to acknowledge that the same thing is likely to happen when the Brexit project itself is completed, and again when the UK Government attempts to impose more hostile anti-immigrant policies at a UK level.

Although most of us would oppose that policy direction, we need to recognise what is happening and to gear ourselves up with the courage and commitment to oppose what is likely to be a very challenging time—a time in which we will continue to see that rising tide of racism and intolerance.

It is not only the Brexit crisis that has emboldened those who take such views and who wish to propagate racism; globally, the impact of the Trump presidency has emboldened them and given some form of perceived permission to those who want to propagate racism, white supremacy and intolerant attitudes and ideas. We see that not only in social media but—as has been quite clearly and correctly stated in the debate—in people's communities and in people's lives on a daily basis, and I fear that it will get worse in the years ahead.

I welcome the fact that the Bracadale review—the hate crime review that should have happened several years ago—is now under way. I hope that it is coming towards a conclusion and some recommendations. I have made the argument to Lord Bracadale that we should be open to the question whether far-right language and imagery themselves need to be recognised as hate crime.

I endorse Anas Sarwar's comments about political parties as well as other institutions in our society. I know that there has been recent high-profile discussion about the Labour Party, but it is by no means an issue for only on one political party—it is an issue that reaches across the political spectrum. It reaches across our society and our political landscape, and every political party has a responsibility to take a zero tolerance attitude not only in reacting to specific incidents, but in ensuring, proactively, that we do not recruit

as candidates people who need to be disciplined for what are basic matters of decency and civility.

13:43

**Maurice Corry (West Scotland) (Con):** I thank Fulton MacGregor for securing today's members' business debate, which gives us the opportunity to properly mark the UN international day for the elimination of racial discrimination.

This is a well-timed debate. We only have to look at the recent high-profile case that we all have heard of, involving one of our colleagues, Humza Yousaf, who was faced with Islamophobic comments from an elected councillor, to realise that. Humza Yousaf and Anas Sarwar spoke powerfully on the BBC at the weekend about racism and Islamophobia and the threats and abuse that they receive as public figures due to their race and religion—injustices that no one should ever have to face today. It shows that we still have some distance to travel before we are finally able to say that Scotland is free from this despicable form of discrimination.

The UN international day for the elimination of racial discrimination has been marked since 1966, and the UN chose 21 March because it was on that day in 1960 that police opened fire and killed 69 people at a peaceful demonstration against the apartheid laws, in Sharpeville, South Africa. Proclaiming the day in 1966, the United Nations general assembly called on the international community to redouble its efforts to eliminate all forms of racial discrimination.

It is appropriate that this day is still marked in South Africa as human rights day, which is a public holiday. I am sure that everyone in the Parliament offers our support to South Africans as they commemorate the lives that were sadly lost during their long struggle for democracy, freedom and equal human rights in their country during the apartheid regime.

Since then, the UN has adopted the Durban declaration and programme of action, to address and track instances of discrimination around the world. Under the programme, measures have been put in place for nations to report on the state of equality and be held accountable for addressing evident issues. In April 2009, the Durban review conference was held to look into the effectiveness of the programme's performance. Individuals and organisations had the opportunity to speak about the state of racial and religious equality in their countries.

Examples of racial discrimination exist throughout the Commonwealth. During the conference, Khalid Hussain, a Bihari from Bangladesh, talked about the discrimination that he and his community face. The Bihari are not

recognized by the public as citizens and face discrimination in the context of school and employment opportunities. They have been living in camps throughout Bangladesh since the partition of Pakistan in 1971.

Many Bihari people are denied entry to the public school system after primary school, which forces them to go to private school—something that most Bihari cannot afford to do. That was Hussain's experience, and while he was at private school, he and his Bihari classmates were bullied and marginalised in the classroom. Nevertheless, he was lucky enough to get an education. Many of his peers were unable to do so, which has placed limits on the jobs that they can hold.

Although discrimination continues, there was new hope in 2003 when Bihari living in the camps were officially deemed Bangladeshi by the Bangladeshi High Court, which forced the Electoral Commission to give them voting rights.

That is just one of numerous accounts of the racial or religious discrimination that citizens of the Commonwealth face every day. Last week, we celebrated Commonwealth day and reflected on the progress that has been made, while recognising the progress that remains to be made. In the context of racial discrimination, we must continue to work towards a fairer society throughout Scotland, the United Kingdom and the Commonwealth, including through the United Nations.

The promotion of tolerance, inclusion, unity and respect for diversity is the focus of this year's international day for the elimination of racial discrimination. Globally, there is still much progress to be made. Despite the near-global ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, many individuals and communities still face systemic discrimination based on their race or religion.

If there is global co-operation and we share tactics that have worked in individual countries, making a true effort to end racial and religious discrimination, progress can be made.

13:48

**The Minister for International Development and Europe (Dr Alasdair Allan):** I thank all members for their considered and insightful speeches, and in particular I thank Fulton MacGregor for lodging the motion that we debate in the Parliament today. It is fitting that we are discussing these matters on the international day for the elimination of racial discrimination.

Like the Scottish Parliament, the Scottish Government is determined that Scotland should

do all that it can to advance race equality, tackle racism and address the barriers that prevent people from minority ethnic communities from realising their fullest potential.

With that in mind, we published the race equality action plan in December, which restates our commitment to race equality and outlines the actions that we will take during this parliamentary session to realise the ambitions that are set out in the race equality framework for Scotland, which was published in March 2016. Following the recommendation of Kaliani Lyle, the independent race equality framework adviser, we are establishing a senior level programme board, which will meet quarterly, to oversee the action plan's implementation.

This is, of course, the year of young people. A group of minority ethnic young people have been working with the Scottish Government since April 2017, supported by Young Scot, to co-design a fairer future for minority ethnic young people in Scotland. In November, they published their report, which is entitled "Creating a Fairer Future—Young people's ideas for race equality in Scotland". Most of the panel members have experienced some form of discrimination based on their ethnic background. In the midst of talking about Government policy, it is worth reflecting on the fact that the Government policy exists because of personal human experiences of unjustifiable discrimination—experiences that limit people's opportunities in their lives in our country. All that has a terrible impact on people and families.

As Patrick Harvie observed, we live in a time when some people feel that casual racism has been given political permission from some quarters, here and in other countries. All of us as politicians and all parties need to tackle that head on. As we have heard, part of that involves examining our past, including examining the history of the British empire in a way that we perhaps do not often do, as well as the role of Scots in the slave trade, which Tom Arthur alluded to, even if that means merely looking about us and learning the story behind some of our street names.

As my colleague the Cabinet Secretary for Communities, Social Security and Equalities announced earlier today, one of our partners in the work that we do, BEMIS, will deliver a programme of local and national events that are aimed at involving minority ethnic young people in the year of young people. BEMIS, which has delivered strongly on previous themed years, will receive around £70,000 for that project. That is in addition to the £2.6 million of funding that we provide to tackle racism and racial discrimination. We are also providing £500,000 for a new workplace equality fund, which will support innovative

projects that are aimed at reducing barriers to employment for minority ethnic people, women, disabled people and older people.

The race equality adviser's report "Addressing Race Inequality in Scotland: The Way Forward" highlighted that research shows that one community faces particular discrimination, and that is Scotland's Gypsy Traveller community. That is why in December 2017 the Cabinet Secretary for Communities, Social Security and Equalities announced the establishment of a ministerial working group specifically on Gypsy Travellers, which she chairs and which is attended by the Minister for Local Government and Housing, the Minister for Childcare and Early Years, the Minister for Employability and Training and the Minister for Public Health and Sport. The cabinet secretary and the ministers on the working group have been visiting Gypsy Traveller sites and meeting members of that community. Engagement with the community will continue over the lifespan of the working group, not simply to ask what the problems are—we have probably done that already—but to check out with them the viability of the solutions that the working group develops.

More generally, the actions that we need to eradicate racism are of course not just for the Scottish Government alone. As Anas Sarwar rightly said, every individual and organisation in Scotland needs to play their role in creating a fair and equal Scotland that protects and includes people from all backgrounds, whatever their ethnicity. As Annie Wells and others observed, we cannot be complacent just because we have not seen in Scotland some of the issues that have been evident in other parts of the UK. As recent incidents have shown, Scotland is not immune from the phenomenon of public figures in our communities saying moronic things. Members of the Parliament have been subjected to offensive comments and much worse because of their race or religion. Strong action needs to be taken against all offenders and all political parties and all of us in the Parliament need to adopt a zero-tolerance approach to examples of racist hate crime.

I will finish with a quote from the American writer and civil rights activist Audre Lorde, who wrote:

"It is not our differences that divide us. It is our inability to recognize, accept, and celebrate those differences."

We may look and sound different and live differently, but we are all people. As Fulton MacGregor said, we are all Scots—we all live in this community together and we all deserve the same opportunities and to be able to make the same contribution as anyone else.

13:54

*Meeting suspended.*

14:00

*On resuming—*

## Portfolio Question Time

### Communities, Social Security and Equalities

**The Deputy Presiding Officer (Christine Grahame):** I want to get in as many members as possible; members have taken the trouble to lodge questions, so we should try to reach them all. It is a collective effort, so I ask for snappy questions and contained answers.

#### Scottish Welfare Fund (Households Assisted in Renfrewshire South)

1. **Tom Arthur (Renfrewshire South) (SNP):** To ask the Scottish Government how many households in the Renfrewshire South constituency have been assisted by the Scottish welfare fund since 2013. (S5O-01907)

**The Minister for Social Security (Jeane Freeman):** Between April 2013 and September 2017, the Scottish welfare fund has helped 23,500 households in Renfrewshire, with more than £5.6 million having been allocated in crisis grants and community care grants, thereby providing a vital lifeline for people in Renfrewshire and across Scotland, and helping people in desperate situations who cannot afford to buy everyday items such as food and nappies, or to meet basic living costs.

**Tom Arthur:** What impact does the minister consider the United Kingdom Tory Government's welfare reforms have had in terms of pushing people into circumstances in which they have needed the support of the Scottish welfare fund?

**Jeane Freeman:** Welfare measures that have been passed since 2010 are expected to reduce annual spending in Scotland by £3.9 billion by 2020-2021. There is no doubt that the UK Government's welfare reforms—in particular, the in-built wait for the first payment of universal credit—are pushing people into crisis.

In its report, the Trussell Trust highlighted a 17 per cent increase in use of its food banks in universal credit full-service areas, which is more than double the national average. The number of Scottish welfare fund crisis grant applications has also increased by 50 per cent since the introduction of universal credit in Scotland, of which 14 per cent is due to a delay in benefit payments.

It is imperative that the UK Government take action to reverse the freeze of working-age benefits, that it remove the child benefit two-child

restriction, and that it halt the roll-out of universal credit before more people are pushed into poverty.

**Maurice Corry (West Scotland) (Con):** How many armed forces veterans' families have been assisted by the Scottish welfare fund in Renfrewshire South?

**Jeane Freeman:** I do not have that detailed information to hand, but I am very happy to source it and write to Maurice Corry with it.

**Monica Lennon (Central Scotland) (Lab):** Does the minister accept that the Scottish Government's 7 per cent real-terms cut to the Scottish welfare fund since 2013 means that councils have fewer resources? The Scottish Parliament information centre says that 26,000 more crisis grant payments could have been made had the funding kept pace with inflation.

**Jeane Freeman:** What I do accept is that the overall cut to the Scottish budget has made political choices for this Government difficult. We are doing our very best to support the most vulnerable people in our communities, and our welfare fund demonstrates that admirably.

#### **Universal Credit (Support for Recipients in Inverclyde)**

**2. Stuart McMillan (Greenock and Inverclyde) (SNP):** To ask the Scottish Government what support it provides to people in Inverclyde who are in receipt of universal credit to assist them to have greater control over their household budget. (S5O-01908)

**The Minister for Social Security (Jeane Freeman):** We believe that it is important to give people choice over how to manage their money. Since last October, people making a new claim for universal credit in full-service areas, such as Inverclyde, have had the choice to receive their universal credit award twice monthly and to have their housing costs paid directly to their landlord. Since January, that choice has been extended to everyone in universal credit full-service areas.

To the end of December, some 5,800 people with new claims have been offered one or both of the universal credit Scottish choices, and about 2,500 people have taken up one or both of those choices. As far as we understand it, the information available about those choices and their delivery has been clearly understood by those who are in receipt of universal credit and those choices are being used.

**Stuart McMillan:** That information is very helpful. Given the extension of the universal credit choices to existing universal credit claimants, how many households does the Government expect will benefit from those choices, once universal credit has been fully rolled out?

**Jeane Freeman:** We expect up to that 700,000 households will be able to benefit from universal credit Scottish choices by the end of the planned universal credit roll-out by the United Kingdom Government, which is currently timed for 2022.

#### **Loneliness and Social Isolation (South Scotland)**

**3. Emma Harper (South Scotland) (SNP):** To ask the Scottish Government what action it is taking to tackle loneliness and social isolation in the South Scotland region. (S5O-01909)

**The Minister for Social Security (Jeane Freeman):** As part of our engagement process, our draft strategy—which we launched in January—has included the organisation of a series of events to hear from local communities and organisations. We have already hosted an event in Dumfries, and one is planned in Galashiels.

The draft strategy includes a commitment to consider the particular issues and barriers related to isolation in rural areas. It is important that we hear from communities about what will make a difference for them.

**Emma Harper:** I welcome the Scottish Government's strategy. Does the minister agree that we should recognise the work that the national rural mental health forum, which is run by the mental health charity Support in Mind Scotland, is undertaking with respect to the unique challenges that are presented by rural isolation?

**Jeane Freeman:** There are undoubtedly particular issues across all ages in our rural communities, which has been highlighted by, for example, the campaign by the Scottish Association of Young Farmers.

The national rural mental health forum is a strong national network of rural people and stakeholders who are driving change to enable people in rural communities to be open about their mental health. It uses a solid evidence base to improve people's lives and to create a programme to influence policy makers, including the Government. I encourage the rural mental health forum to contribute to the consultation on our draft strategy. I am sure that it will be able to present a number of important ideas for us to consider.

#### **Universal Credit (Impact)**

**4. Bruce Crawford (Stirling) (SNP):** To ask the Scottish Government what discussions it has had with the United Kingdom Government regarding the impact of universal credit in areas where it has been introduced. (S5O-01910)

**The Minister for Social Security (Jeane Freeman):** As Bruce Crawford will know, the Scottish Government has long been making

known our concerns about universal credit to the UK Government. On 21 March last year, the Cabinet Secretary for Communities, Social Security and Equalities wrote to the then Secretary of State for Work and Pensions, Damian Green, raising a range of serious concerns and calling for a complete halt to universal credit roll-out.

On 28 September 2017, I wrote a joint letter with the Convention of Scottish Local Authorities, based on significant evidence from our local authorities, urging the Department for Work and Pensions to reconsider and halt roll-out of universal credit. I reiterated that request when I gave evidence to Westminster's Work and Pensions Committee on 24 January this year.

Unfortunately, the UK Government has never indicated a willingness to engage with us on those issues, and has instead forged ahead with a system that is clearly not suitable for the people who need it. The concessions that that Government made in autumn last year, including reducing the six-week wait for the first payment to five weeks, simply do not go far enough.

Although I am pleased that our universal credit Scottish choices are being taken up by people across Scotland, I am well aware that we have very limited powers over universal credit. We cannot fix the problems that are caused by the UK Government's decision to freeze the amounts that are paid and by the systemic problems in roll-out. Only the UK Government can do that, so we will continue to press it, in that regard.

**Bruce Crawford:** Is the minister aware that the Tories in Stirling Council have no faith in universal credit, given that they have called for the council to spend £600,000 over the next three years to mitigate it? That council's public safety committee recently reported that victims of domestic abuse are losing their financial independence under universal credit's single-parent system, which is making people who are in controlling relationships even more vulnerable, so what more can be done to persuade the UK Government to dispense with the system, to halt it as a matter of urgency and to review and address the serious faults?

**Jeane Freeman:** I am, indeed, aware of that situation. It is further proof—if proof were needed—that universal credit is failing the people of Scotland. The DWP already has, through alternative payment arrangements, the ability to provide split payments for households in which domestic or financial abuse is a problem.

However, in my view that approach shows a flawed understanding of the nature of domestic abuse and the controlling characteristics in it from which victims suffer. The Scottish Government is exploring with the DWP how we might exercise a choice for people in Scotland by introducing split

payments for universal credit, but that is made complicated by the fact that the benefit is itself reserved. The DWP would have to deliver any such choice for us, and it would, of course, charge us for that. A far better solution would be for the DWP to pay attention to my colleague Dr Philippa Whitford and her attempts at Westminster to get the system changed at source and to have split universal credit payments as the default.

### Gender Equality (Promotion)

**5. Jackson Carlaw (Eastwood) (Con):** To ask the Scottish Government what its position is on the need to promote gender equality. (S5O-01911)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** Our position is that we will continue to take action to promote and achieve gender equality in our country. I am pleased that a great deal of progress has been made on gender equality in recent years, but there is always much more to do.

Our recent action includes taking tangible steps to improve the lives of women and girls in Scotland and to challenge inequality where it persists. Already this year, we have passed legislation on women's representation on public boards and on domestic abuse. We are taking forward action to tackle the gender pay gap and to make work fairer for women by, for example, transforming our childcare offer, challenging pregnancy and maternity discrimination, and supporting women to return to work. Moreover, we are continuing to invest in tackling and preventing violence against women and girls and in providing the support and services that they need.

**Jackson Carlaw:** I was depressed to be made aware at the beginning of March of the detention of 35 women by the Iranian authorities for attempting to attend a high-profile football fixture. A number of my constituents have written to me on the matter, which stands in contrast with what we are doing in Scotland. Not only have we taken important steps to encourage women and girls to become interested in football, but that success has been demonstrated by the success of the Scottish women's national football team, who qualified for their first major championships—Euro 2017—and have made an unbeaten start to their 2019 world cup qualifying campaign.

Given that Scotland is a nation that has made important advances in encouraging women into football, will the cabinet secretary join me in urging FIFA and its member associations to do all that they can to ensure that the Iranian Government lifts this shameful ban and gives gender equality to women to allow them to both participate in and spectate at football and other sporting activities in Iran?

**Angela Constance:** I will certainly raise the details of Mr Carlaw's request in relation to FIFA with my health colleagues, who have responsibility for sports policy. The member makes a fair and credible point about the impact that sport can have on improving equality for women and girls and, as I have said, I will take that forward with my colleagues in health.

**Clare Adamson (Motherwell and Wishaw) (SNP):** In the spirit of Mr Carlaw's question, I want to congratulate the Scottish women's rugby team on their successes during the recent six nations championship.

Does the cabinet secretary agree that full devolution of employment law to Scotland would fully equip the Government to tackle gender inequality in the workplace here?

**Angela Constance:** I really do not want to get into any rivalry between rugby and football supporters. I am not much of an expert on either sport, but I know that both have an important place in our national life and in the advances that we make on equality.

As for Clare Adamson's substantive question, employment law and, indeed, equality law remain reserved to the United Kingdom. That means that issues such as maternity and paternity rights, which the UK Parliament's Women and Equalities Committee drew attention to yesterday in its report on fathers in the workplace, are all reserved. Our work on encouraging employers to take more flexible approaches to family-friendly working environments and working hours is undertaken through persuasion, and it is fair to say that we do not have the full range of powers that would give us more tools and more choices to address issues such as fairness at work.

### **Inequality (People from Lower-income Backgrounds)**

**6. Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** To ask the Scottish Government what support it offers to people from lower-income backgrounds to tackle inequality. (S5O-01912)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** The Scottish Government is absolutely committed to supporting those on low incomes and to tackling inequality. We are taking a wide range of actions. There is, for example, our continued commitment to the living wage. We are delivering 72,500 affordable homes; significantly increasing the investment in free childcare and early learning; providing free school meals for all primary 1 to primary 3 pupils and throughout school for pupils from low-income households; providing a baby box to every newborn child in

Scotland; and investing in free prescriptions and residential care.

We are spending £750 million on our attainment challenge and driving forward the recommendations of our commission on widening access so that every child—no matter their background or circumstances—has an equal chance of going to university by 2030. On top of that, we invest £100 million a year in welfare mitigation to protect those who are on low incomes from the worst impacts of United Kingdom Government welfare cuts.

We will, of course, go further with a range of actions in our child poverty delivery plan, which I look forward to sharing with Parliament next week.

**Rachael Hamilton:** Does the cabinet secretary agree that a big barrier to tackling inequality that is felt by young people in rural and hard-to-get-to areas is the cost associated with travel to apprenticeships, further education or even higher education? Will she look into helping young people on limited budgets who live in rural areas and face unforeseen expenses to access opportunities in order to tackle inequality?

**Angela Constance:** Yes, indeed. I am sure that Rachael Hamilton is aware of the consultation on our broader transport policy that is being led by the Minister for Transport and the Islands, Humza Yousaf. There are also proposals to assist young modern apprentices in particular with the cost of travel.

We understand and appreciate, of course, that there are additional barriers in rural communities—one of which is transport—particularly for young people. Given the tone and tenor of Rachael Hamilton's question, we will certainly take that issue forward.

**Mark Griffin (Central Scotland) (Lab):** In September, it was reported that 104,000 pensioners were missing out on £238 million of pension credit. The Government then spent a quarter of a million pounds on an older persons benefit uptake campaign. How many people responded to that campaign? How many older people are now better off as a result of it?

**Angela Constance:** That information will be published shortly.

On the broader issue of council tax relief, we invest heavily in the council tax reduction scheme. It is important always to stress that relief is available to affected households. Councils should, of course, publicise the relief when bills are issued. As Mr Griffin has acknowledged, that has featured in our benefits maximisation campaigns. We will get back to him about the specific information that he requested.

### **Universal Credit (Impact of Income Tax Starter Rate)**

**7. Kezia Dugdale (Lothian) (Lab):** To ask the Scottish Government what action it is taking to ensure that people do not lose universal credit because of the starter rate of income tax. (S5O-01913)

**The Minister for Social Security (Jeane Freeman):** That issue clearly highlights the complexities of our current devolution settlement. Universal credit claimants who pay tax at the starter rate benefit from Scottish income tax policy. They will pay less income tax than people would pay anywhere else in the United Kingdom because of the new band that we have created. The UK Government controls policy for universal credit and has stipulated that it should be calculated according to an individual's income after tax. That means that, whenever we reduce tax for an individual, the UK Government's rules will operate to reduce their universal credit entitlement.

We are aware of the complex interaction between Scottish income tax policy and entitlement to universal credit, which is reserved to the UK Government, and we will continue to engage with it as universal credit is rolled out across Scotland.

**Kezia Dugdale:** The minister is, of course, aware of the work of the Low Incomes Tax Reform Group, which has told us that someone on the starter rate will get only £7 and not the £20 that the Scottish Government promised them. I understand that the fiscal framework makes provision for a transfer back to the Scottish Government. Has the minister asked for that money? How much is it? How will the minister pass that on to the people affected?

**Jeane Freeman:** It is not, of course, the Scottish Government's fault that individuals receive less as a consequence of the UK Government's rules on universal credit. I have explained that the UK Government's rules on universal credit, which is a benefit that it controls, say that it will be calculated after tax. Therefore, when we increase an individual's income as a consequence of our tax policy, the UK Government will reduce that income because of how it applies its universal credit rules. *[Interruption.]* My colleagues on my left—they are on my left only with regard to the seating arrangements in the chamber, of course—can shout and moan as much as they like, but they must accept responsibility for the decisions on universal credit of their party in government at United Kingdom level, which make the situation precisely as I have described it.

I turn to Ms Dugdale's supplementary. As she knows from the answer that Mr Mackay gave previously in the chamber, we are in discussions with the UK Government on how those arrangements work. The issue is more complex than it might first appear, as matters that relate to the fiscal framework and the Smith commission always are.

The answer to all that is to pass to the Scottish Parliament all the powers to do with social security and taxation. That would let us get on and do a better job than the one that is being done for us down south.

### **United Nations International Day for the Elimination of Racial Discrimination**

**8. Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the Scottish Government what it is doing to mark the UN international day for the elimination of racial discrimination. (S5O-01914)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** I congratulate Mr MacGregor on the motion that he lodged to mark this significant day, which was debated earlier, and on securing cross-party support for it.

To mark the day, I published a blog on our fairer Scotland website, in which I highlighted that this year is the 70th anniversary of the Universal Declaration of Human Rights, which I noted is as relevant today as it was on the day on which it was signed. I also referred to the independent race equality adviser's report and her 70 recommendations, which formed the starting point for our race equality action plan. I was pleased to announce that we will provide funding of around £70,000 to one of our key race equality partners, BEMIS, to deliver a programme of local and national events that is aimed at involving minority ethnic young people in the year of young people.

I am very much looking forward to attending an event tomorrow to celebrate young people's creativity in tackling racism, which will be hosted by Show Racism the Red Card.

**Fulton MacGregor:** I welcome the actions that the Government is taking to tackle racism. Given that it is actions that matter, does the cabinet secretary agree that all workplaces and establishments, including political parties, should adopt a zero-tolerance approach to racism and discrimination against minorities?

**Angela Constance:** I do. The member is right to highlight that a zero-tolerance approach to racism and racial discrimination is needed. That response is needed now, and it must be consistent.



I agree that strong and effective action must be taken against anyone who commits a racist hate crime. All those who occupy leadership positions in public life must make clear their rejection of racist and Islamophobic abuse and must take action against anyone who makes statements of that nature.

It was good to see Anas Sarwar and Humza Yousaf showing a united front at the weekend in response to the racist and Islamophobic abuse that they routinely experience, which I am sure we are all absolutely appalled by, but it is important to stress that it is not just for Anas Sarwar and Humza Yousaf to stand united on the issue—we must all stand united in tackling racism in all its forms.

**Pauline McNeill (Glasgow) (Lab):** Will the Scottish Government support the call from BEMIS for Scotland's national identity to be as inclusive as it can be and for it to include the integration of refugees and asylum seekers into Scottish society? Does the cabinet secretary agree that anti-refugee sentiment has no place in Scotland or in our society?

**Angela Constance:** I agree. It is, indeed, a case of one Scotland, many cultures. I hope that the member has seen that reflected in the good cross-party civic Scotland work that we have done on our immigration strategy for new Scots.

#### Period Poverty

9. **Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** To ask the Scottish Government what action it is taking to tackle period poverty. (S5O-01915)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** In our programme for government, which was published in September, we committed to introducing a scheme to fund access to free sanitary products in schools, colleges and universities. Scottish Government officials are currently working with key stakeholders including the Convention of Scottish Local Authorities, the Scottish Further and Higher Education Funding Council, Colleges Scotland and Universities Scotland to ensure that provision can be put in place by the autumn term this year.

We are also committed to considering further action to support others on low incomes in the light of the findings of the pilot scheme in Aberdeen. The pilot is currently being evaluated, and I was pleased to announce recently that we will continue to make sanitary products available to those who took part in the pilot while the evaluation is completed.

**Stewart Stevenson:** Is the cabinet secretary aware of the urgency of the matter for people in

Aberdeenshire, where the Tory-led council has now determined that those who require such products must come forward for them, thus potentially stigmatising those who require them by reason of poverty?

**Angela Constance:** I agree that free and accessible provision in schools is vital to tackling the issue, which is why this Government has committed to making that happen in schools across Scotland from the start of the next academic year.

Recent research that we carried out in partnership with Young Scot found that having to ask a member of staff for sanitary products was the least popular option among those in education. Officials have worked closely with stakeholders, informed by that important research, to develop a set of guiding principles for provision. Those principles include ensuring that dignity is front and centre and that students' views are taken into account in developing the delivery approach.

It appears that the approach of Aberdeenshire Council is not consistent with students' views or with our guiding principles. I encourage it to look again at its delivery approach in consultation with students. I and my officials stand ready to assist either the MSP for the area, councillors or officials.

**The Deputy Presiding Officer:** I call Monica Lennon. As you have already had a supplementary question, Ms Lennon, I ask you to be brief.

**Monica Lennon (Central Scotland) (Lab):** I commend the Scottish Government for its work on the Aberdeen pilot scheme. I have been to visit the pilot scheme, and the volunteers at Community Food Initiatives North East are doing fantastic work. Is the cabinet secretary able to say when the interim report or anonymised data from the pilot scheme will be shared? When will the Government come to a view on the merits of universal access?

**Angela Constance:** We are working hard to do that as quickly as possible. It will not be done before Easter, but I certainly hope that that work will be complete before the summer months, and I will endeavour to make sure that it is.

#### Empty Homes (Private Sector)

10. **Lewis Macdonald (North East Scotland) (Lab):** To ask the Scottish Government what its policy is regarding empty homes in the private sector. (S5O-01916)

**The Minister for Local Government and Housing (Kevin Stewart):** Empty homes can be a blight on communities and are a wasted resource at a time when people across Scotland need homes. Our policy provides support to local authorities and other organisations to encourage

private owners to bring their properties back into use.

We work with the Scottish empty homes partnership to deliver an advisory helpline and a network of dedicated empty homes officers across Scotland, and more than 2,800 homes have been brought back into use since 2010. In the programme for government, we committed to doubling the funding for the partnership, and we want to see empty homes officer support in every local authority. I am pleased to see the partnership's hard work come to fruition, with a new empty homes officer post being agreed by Aberdeen City Council last week.

Local authorities also have the power to charge an empty homes levy under the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations, which we introduced in 2013 as an additional tool to encourage the private owners of these properties to bring them back into use, and we provide dedicated funding through the £4.5 million empty homes loan fund and the £4 million town centre empty homes fund.

**Lewis Macdonald:** I welcome the minister's answer, as, indeed, I welcomed the decision by Aberdeen City Council last week. In particular, I welcome his support for a network of empty homes officers. There is evidence of a direct correlation between such dedicated posts and success in bringing empty homes back into use. The minister also mentioned the levy. Does he believe that local authorities now have all the powers that they need to tackle the problem?

**Kevin Stewart:** I know that the levy is being used, and I have no evidence from local authorities to say that it is not working. I am always more than willing to listen to what local authorities have to say in these areas, and, if they come forward with further proposals, I will certainly consider them. We want to do all that we can to ensure that empty homes are brought back into use.

#### **International Covenant on Economic, Social and Cultural Rights (Incorporation)**

11. **Andy Wightman (Lothian) (Green):** To ask the Scottish Government what plans it has to incorporate the International Covenant on Economic, Social and Cultural Rights into Scots law. (S5O-01917)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** Many of the rights that are identified in international human rights treaties already find expression in the law of Scotland, including rights that are set out in the International Covenant on Economic, Social and Cultural Rights.

The First Minister's advisory group on human rights leadership, which is chaired by Professor Alan Miller, has been asked to consider the potential effects of incorporating international human rights treaties into domestic law and the means by which that might be undertaken in practice. The group will make its recommendations by the end of this year, and we are clear that any mechanism that is designed to secure the further incorporation of international treaties must be practical and deliverable and must result in genuine improvements in the daily lived experience of individuals across the whole of Scottish society.

**Andy Wightman:** Given the Government's commitment to deliver a collaborative process to determine the rights that should be incorporated, and given the recent report by the Equality and Human Rights Commission on Great Britain's lack of progress in implementing the covenant, can the cabinet secretary advise me of her view of what should be the first right or rights to be incorporated?

**Angela Constance:** There is a question. Thank you very much for that, Mr Wightman. I think that I would be standing here all day if I gave my deliberations about that on the hoof, although, as members would expect, I do have some personal preferences. It is important that we allow the First Minister's advisory group to show leadership in the area. As I said in my original answer, the Government is clear that the benefits of incorporation need to be practical and must deliver real improvements to real folk in their real lives. It is fair to say that there is a job of work to be done in better understanding the mechanism and process for getting to that place.

On the issue of collaboration, it is important that the member is aware that the advisory group will meet every few months and will work hard to collaborate with civic Scotland. I am sure that the member will be able to feed into that process.

#### **Ministerial Working Group on Gypsy/Travellers (Meetings)**

12. **Annie Wells (Glasgow) (Con):** To ask the Scottish Government when the Gypsy/Travellers ministerial working group last met. (S5O-01918)

**The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance):** The ministerial working group on Gypsy/Travellers met for the first time on 1 February 2018, and the minutes of that meeting have been published on the Scottish Government's website. There will be three further meetings this year, and we will share a set of draft actions in early 2019.

**Annie Wells:** I am pleased to hear that the group met in February. Considering the broad scope of the ministerial group and that it is working across Government portfolios, how will the cabinet secretary seek to record and measure data that are specific to the Gypsy Traveller community so that we maintain a realistic view of progress?

**Angela Constance:** The member raises a fair point about the importance of the data being consistent with our approach across the range of equalities. We need the right data and it needs to be proportionate, because we could invest all our time and money in contemplating and completing research and seeking out data. Given that it is, rightly, imperative that the Government act, it is important that we take a proportionate approach to data. The member's question is a fair one. Our overall approach is laid out on our equality evidence website, and we published a strategy on equality evidence some months back.

On measuring success, I emphasise that the ministers who are involved in the ministerial working group—including me, as the chair—are absolutely determined to make demonstrable progress on issues of inequality that have impacted on the Gypsy Traveller community. It is well established that that group experiences the worst outcomes of any group in Scotland across a range of indicators, and we are determined to put that right.

### Universal Credit (Roll-out)

13. **David Torrance (Kirkcaldy) (SNP):** To ask the Scottish Government whether it will provide an update on the recent roll-out of universal credit and the impact that it has had on vulnerable people in Scotland. (S5O-01919)

**The Minister for Social Security (Jeane Freeman):** As the member will recall, when I wrote jointly with the Convention of Scottish Local Authorities to the Department for Work and Pensions Secretary of State back in September last year calling for the roll-out to be halted, we included evidence from local authorities that had been on universal credit the longest that showed that they were experiencing two and a half times more rent arrears for universal credit claimants than for those on housing benefit. Local authorities also reported an increase in administrative costs to them that was up to three times more than the funding that was received through their delivery partnership agreement with the DWP. Additionally, we know the demand impact on the Scottish welfare fund, which we have already touched on.

Although Scottish choices on the direct payment of rent to social and private landlords are relatively new—they were introduced for new claimants in October and rolled out for existing claimants in January—I am hopeful, given the take-up so far,

that that will benefit not only individual claimants but landlords, in terms of rent arrears. Nonetheless, that is only one part of the difficulty with universal credit. We are well aware of its impact across Scotland.

**David Torrance:** The minister will be aware that universal credit was introduced in Fife in December. The local authority's head of revenue and commercial services did not mince his words when he said:

"I can see a car crash happening when Universal Credit is fully rolled out".

We are witnessing a sharp rise in rent arrears, food bank referrals and crisis grants to local authorities where universal credit has been rolled out. Does the Scottish Government agree that that is indicative of a system that is not working properly? What additional support, if any, has the United Kingdom Government provided to Scotland to address those challenges, as it continues to push forward the disastrous roll-out of universal credit?

**The Deputy Presiding Officer:** That question was a wee bit too long-winded. Trim it next time, please.

**Jeane Freeman:** I agree with David Torrance. I have said many times that the roll-out of universal credit should be halted and that the systemic problem should be fixed. The policy that freezes the benefits within universal credit should be addressed by the UK Government. Other than because it does not want to lose face, I do not understand why any sensible Government would not do as we are urging the UK Government to do.

The UK Government has not provided any additional support to help to address the problems that are being faced, despite those problems and the impact of them on our local authorities and on the Scottish Government being repeatedly demonstrated to the UK Government.

### Social Security System (Support for Appeals)

14. **Joan McAlpine (South Scotland) (SNP):** To ask the Scottish Government how the Scottish social security system will support people seeking to appeal decisions (S5O-01920)

**The Minister for Social Security (Jeane Freeman):** We have always been clear that people will have a right to challenge a social security agency decision if they believe that the agency has not made the right decision, and that we should make that process as simple and straightforward as possible.

I am pleased that we have support at stage 2 for the amendments that I lodged to make the appeal process easier while retaining the individual's right to decide what they want to do. The amendments

will ensure that the agency does all that it can to help an individual with an appeal, including providing information about the process, providing the right form to make an appeal and signposting the individual to organisations that can provide them with independent support throughout the process.

In addition, and in contrast with the current system, I have amended the Social Security (Scotland) Bill to ensure that we will make short-term financial assistance available when a decision to reduce or stop a continuing payment is being challenged. We will not use the removal of financial support to pressure individuals to accept decisions that they believe are wrong.

**Joan McAlpine:** The minister mentioned that financial support will not be removed in the new Scottish system. Can she give us some details on the timing in terms of when a new decision is made? Removing financial support results in a cliff edge and in people having no support at all when a decision is appealed.

**Jeane Freeman:** Short-term assistance has been introduced precisely to ensure that an individual is not financially penalised right through to appeal at tribunal level, while they pursue their right to challenge a decision of the Scottish social security agency. When the tribunal reaches its decision, the agency will pay whatever level of benefit that the tribunal has determined that the individual is due. I hope that that provides the member with the answer that she seeks. I am happy to talk to her further so that she understands what we are proposing.

**Jeremy Balfour (Lothian) (Con):** The minister will be aware that, at present, the Social Security (Scotland) Bill does not allow a claimant an appeal to a first-tier tribunal if the appeal relates to overpayment. Will she look at that issue afresh and keep the system as it is? At the moment, if the claimant disagrees with a decision by the agency on overpayment, he or she is allowed an appeal to a first-tier tribunal.

**Jeane Freeman:** I thank Mr Balfour for raising that issue because it addresses a fundamental misunderstanding of what is in the bill. There is, in fact, a right to appeal because, if the agency tells an individual that they have been overpaid, it does so because it has made a new determination. That determination is open to challenge right through to appeal. Therefore, any view on the agency's part that an individual has been overpaid is as open to challenge right through to appeal as any other determination that it might make.

**The Deputy Presiding Officer:** That concludes portfolio questions. I apologise to the five members whom I have been unable to call.

## UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill: Stage 3

14:41

**The Presiding Officer (Ken Macintosh):** The next item of business is stage 3 proceedings of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, the marshalled list, the revised supplement to the marshalled list and the groupings. The division bell will sound and proceedings will be suspended for five minutes before the first vote of the afternoon. The period of voting for that first division will be 30 seconds. Thereafter, there will be a voting period of one minute for the first vote in a group.

Members should now refer to the marshalled list of amendments.

### Before section 1

**The Presiding Officer:** Amendment 14, in the name of Adam Tomkins, is grouped with amendments 14A and 49.

**Adam Tomkins (Glasgow) (Con):** It is imperative that Brexit—that is to say, the United Kingdom's withdrawal from the European Union—does not inadvertently undermine the integrity of the United Kingdom as a union of four constituent nations. Indeed, Brexit should deepen and strengthen our precious union.

The United Kingdom common frameworks that we will need in policy areas such as agricultural support, public procurement and environmental protection will, if they are designed properly, lead to a new post-Brexit era of shared government in the United Kingdom, with the United Kingdom Government and the devolved Administrations working together in the common interests of all of the nations of the UK. That is exactly as it should be.

The Scottish Parliament and the National Assembly for Wales will become even more powerful as a result of Brexit. A suite of powers—all of which, by the way, the Scottish National Party-Green alliance would rather say no to; they would rather they are held in Brussels—will come here. They include, but in no sense are restricted to, powers over aviation, carbon capture, the marine environment, maritime issues, energy—including renewable energy—flood risk, water quality, forestry, cross-border healthcare, roads, transport, and voting rights.

Amendment 14 seeks to ensure that the operation of those new powers does nothing to undermine, impede or restrict the operation of the United Kingdom domestic market as it operates now. Those last words are important. The amendment imposes no new restriction on the Scottish Parliament or the Scottish ministers. It takes nothing away from our legislative competence or ministers' executive competence.

The amendment seeks to define and understand our precious union and the domestic market broadly. Of course, commerce and trade—the free movement of goods, capital, services and labour—are at the heart of it. Free trade was the reason why the union was established 311 years ago in 1707 and it is the reason why Scotland has prospered in the three centuries since. However, it is not just about trade. Our union is a social and cultural union, too. Again, my amendment recognises that and seeks to protect all of it.

14:45

Scottish Conservative amendments at stage 2 tried in a variety of ways to protect the union, by making this bill subject to the European Union (Withdrawal) Bill, for example, the Scotland Act 1998, or both. We fully expected the SNP-Green alliance to vote down those amendments, as they will presumably seek to vote down this amendment today. That is par for the course—they do not believe in the union; they want to terminate it. However, the Scottish Labour Party voted with the SNP-Green alliance at stage 2 to defeat our union-protecting amendments. Labour did not want the bill to be subject to the Scotland Act 1998; it voted against that proposition. It did not want the bill to be subject to UK legislation on Brexit; it voted against that proposition. It wanted exactly what the SNP wants—namely, for the bill to give the nationalists licence to use Brexit as an excuse for undermining the union, chiselling away bit by bit at Scotland's rightful place at the heart of the United Kingdom.

Labour's amendment to my amendment, which is amendment 14A, in the name of Neil Findlay—a member of Parliament who could not even be bothered to turn up for any of the stage 2 debates—reinforces our view that the Scottish Labour Party is increasingly untrustworthy on the union.

Mr Findlay's amendment would time limit the requirement to act compatibly with the UK's domestic market to six months, or to the coming into force of the common framework, whichever is earlier. That would hand the SNP a veto, with no checks and no balances. All the SNP would have to do is hold out for six months, refusing to sign up to any UK common framework and, thereafter, it would be free to act in any way it liked, quite

regardless of the UK's legitimate interests in preserving its market integrity. For a nationalist, that is no problem, but I have no idea what a so-called party of the union is doing putting such a reckless proposition to the Scottish Parliament, and we will not support it.

**Neil Findlay (Lothian) (Lab):** Will the member take an intervention?

**Adam Tomkins:** Mr Findlay will get to speak in this debate and I look forward to hearing how he will justify his refusal to turn up at stage 2 and his amendment to my amendment. I will respond to his points when I sum up.

The final amendment in this group is amendment 49, in the name of Tavish Scott, which we will support. The power to keep pace with European law post-Brexit that is provided for in section 13 is an extraordinary power—indeed, it is an extraordinary power grab by Scottish ministers—and Tavish Scott's amendment 49 would be an important and valuable constraint on its exercise.

I commend my amendment 14 and amendment 49, in the name of Tavish Scott, both of which we will vote for. We will not support Labour's attempt to shore up the nationalists' ambitions to use Brexit to undermine the integrity of the United Kingdom.

I move amendment 14.

**Neil Findlay:** Before I move amendment 14A, I ask the minister to take a few minutes to advise Parliament what his intentions are if clause 11 of the European Union (Withdrawal) Bill is amended in the House of Lords and the Government has to introduce legislation here to repeal the continuity bill. What happens to all the amendments on the environment, animal rights, human rights and so on—the protections that we have put in? Will there be another process for us to incorporate those into law or will they be cast aside in a process that to many people might look like a political game and a waste of time? It is incumbent on the minister to advise Parliament now and to advise all members in writing what would happen in that scenario. Finally, how will this Parliament scrutinise any deal that might be done between the Scottish Government, the UK Government and the Welsh Government?

**The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell):** I am happy to say to Mr Findlay that I recognise the importance of the point that he raised. There are elements in the bill, such as the protections for the environment, the charter of fundamental rights and the points about employment that Labour raised, that are different from what is in the withdrawal bill at UK level and which, if the circumstances that he described prevail, might require further legislation.

I commit myself to two things. One is to have consultation with other parties on how we can protect those elements if we reach those circumstances. If the member will write to me about that, I will expand on that to try to find the areas in the bill on which we can find agreement and ensure that, in the event—which is by no means certain—that the bill does not proceed because of an agreement with the UK, we are able to provide those protections, which are extremely important.

Professor Alan Miller indicated earlier this week that he thought that the position that we are taking on the charter of fundamental rights is a far better one, as is our position on the environment and other things.

I commit myself to consulting parties and to responding to the member—and to finding a way to provide those protections should we require to do so.

**Neil Findlay:** How does the minister intend to provide Parliament with the opportunity to scrutinise any deal that is proposed?

**Michael Russell:** I have previously said that we will provide the opportunity for scrutiny of any deal. Nothing will be agreed unless this chamber agrees to it.

**Neil Findlay:** Okay.

Amendment 14A seeks to amend the Tory wrecking amendment. It is our view that any Brexit legislation must take account, and meet the needs, of the different nations and regions of the UK, and it must respect the devolution settlement. As such, it is of great importance that any steps to protect the UK's domestic market are not seen to be at the expense of devolution, or incompatible with it.

Amendment 14 is unacceptable for two reasons: it places no time limit on the restrictions that are proposed and it seeks to make them exclusive to Scotland's Government. It is in the interests of both the rest of the UK and Scotland that equality is achieved between the regions of the UK with regard to this process. I lodged my amendment as a means to address that, and to ensure that reciprocal arrangements are put in place.

We must ensure that other Governments within the UK have an equivalent commitment that will last until common frameworks are agreed. After that point, the commitments would no longer be necessary. That process would ensure that the intent of amendment 14 is met, while making it effective and in line with the spirit of devolution.

If the Tory amendment is agreed to, policy innovation might be curtailed, because any Scottish Government would be prevented from deviating from practices elsewhere in the UK—

practices that are deemed to distort the UK market. For example, we could not introduce public health levies, the smoking ban or the plastic bag tax. That would go against the spirit of devolution and the interests of our people and our democracy.

We will not be supporting Tavish Scott's amendment 49, because we believe that the existing wording is more appropriate.

**Adam Tomkins:** Mr Findlay has missed the point of my amendment 14, which is that it protects the domestic market as it operates before exit day. All the examples that he gave were examples of devolution that worked before exit day, and they would continue to work with devolution after exit day. He does not understand the amendment in front of him.

**Neil Findlay:** I absolutely do understand the amendment. What Mr Tomkins does not understand is that any of those initiatives could not happen in the future—similar initiatives could not happen. When he was in one of the many other political parties that he has been in over the piece, I am sure that Mr Tomkins agreed with devolution. Now that he is in the Tory Party he just does what his paymasters tell him.

I move amendment 14A.

**The Presiding Officer:** Try to keep the discussion to the issues at hand, rather than individuals.

**Tavish Scott (Shetland Islands) (LD):** I sense that there is more politics today than there was last week at stage 2, Presiding Officer.

The continued operation of the UK single market is important to businesses and individuals in Scotland after exit day. New powers are being allocated to the Administrations of the UK: extensive order-making powers are being proposed for ministers in all those Administrations, and in many cases the same powers will be exercised in four different places at the same time.

Every party in this chamber believes that there should be UK frameworks. The Scottish Government is constantly appalled that it has not been consulted properly. My amendment 49 encourages Parliament to make sure that the Scottish ministers lead by example, in that they consider the impact of their proposals on the operation of the UK single market. The amendment puts reference to the importance of that market in the bill.

At stage 2, Adam Tomkins moved amendments to create "protected fields", in which the UK minister would have the power of veto over Scottish ministerial action. That set up the UK minister as judge, jury and executioner on policy areas that everyone agrees should be part of a

UK-wide framework. If the four Administrations are co-operating, I argue that it should not be for one of them acting alone—in this case the UK ministers—to veto proposals.

If Adam Tomkins's intention is to protect the operation of the UK single market, it is a natural extension to support Neil Findlay's amendment, which makes it clear that all four Administrations should be given equivalent and reciprocal commitments.

Parliament has had a lot of time for Adam Tomkins and his background and knowledge as a professor of constitutional law, and I certainly have a lot of time for him. However, today, he seeks to insert a section into a bill before the introductory section that sets out the purpose of the bill itself. That strikes me as being pretty close to parliamentary showboating. Mr Tomkins is a serious lawmaker but he should not have moved such an amendment in this area. I will move amendment 49 on that basis.

**Neil Findlay:** My apologies—I said that we would not be supporting amendment 49, but we will be.

**Bruce Crawford (Stirling) (SNP):** After last week's 11 hours of Finance and Constitution Committee meetings, I did not intend to speak in the debate. However, having sat down and read more closely Adam Tomkins's amendment 14, I felt that I had to get my feet and make a few points.

Adam Tomkins knows that I fully respect how he makes an argument and puts across his points, and we have worked closely together on issues around clause 11 of the EU withdrawal bill. However, I believe that amendment 14 is an attempt to put this and any future Scottish Government in a policy box and to restrict its choices. He might not mean to do that, but if we look, in particular, at subsection (3)(a) of amendment 14, we see a very wide power that is open to very wide interpretation. The amendment states:

"For the purposes of this Act, the exercise of any power so as to impede or obstruct the United Kingdom domestic market includes, but is not limited to, the making of any enactment—"

a very wide power to give any future UK Government, which gets worse as it continues:

"that would result in regulatory divergence materially damaging the ability of individuals, corporations or entities based in Scotland to trade, contract"

and so on. That is a very wide power.

**Adam Tomkins:** I am grateful to Mr Crawford for his kind words.

The bill is called a continuity bill. The opening words of my amendment 14, as Mr Crawford will

have noticed, seek to preserve in the United Kingdom, post-Brexit, the operation of the domestic market as it operates now, pre-Brexit, so that there is continuity between the situation now and the situation in the future: no more and no less. There is no greater ambition in amendment 14 than that. That is fully consistent with the purpose—or the alleged purpose—of the continuity bill, which is to provide for continuity. Will Mr Crawford not accept that?

**Bruce Crawford:** I will take Adam Tomkins at his word—because that's the sort of guy I am. However, although I do not often agree with Neil Findlay—I think that I have never agreed with him before, actually—on this occasion, he is right. This is not just about what has gone before; it is also about what the Scottish Parliament can do in the future.

What if we did not already have in place the minimum pricing legislation and the anti-smoking legislation? What about changes to future income tax rates—which the Tories argue will in some way undermine Scotland's relationship with the rest of the United Kingdom right now, before we even pass this bill? What about differential support in agriculture, which already exists but probably could not exist in the future if amendment 14 were to be agreed to?

Can we set different business rates that would have a different impact to those in the rest of the UK? Landfill tax might be different—we have chosen not to make it different at this stage, but we may in the future choose to set a different level for Scotland. The current land and buildings transaction tax could be diverged from in the future. The Tories have argued that those policies are damaging to Scotland and damaging to the internal market.

If we leave the European Union—I hope that we do not—there may well be an argument that Scotland should have power over VAT, because it is EU legislation that prevents our having power over VAT. If Scotland decided to have a different VAT rate from that in the rest of the UK, amendment 14 would undermine the Scottish Parliament's ability to do that.

I understand that Adam Tomkins wants to prevent the undermining of the UK internal market, but the argument is flawed and I believe that his amendment 14—whether inadvertently or deliberately—would undermine the devolution settlement. Adam Tomkins is very good at, and plausible in, putting across his arguments, but in the case of amendment 14—

**Neil Findlay:** I wonder what the Tory argument would be if the legislation related to local government. If there was an attempt to restrict it,

they would be the first people to say that that was centralisation of power.

**Bruce Crawford:** This year, I will have been an elected member for 30 years—I know that I am beginning to look it, one way or another. I have seen a lot of volte-faces from the Tories, especially on local government. The way that they stand up for local government now and the fig leaf that they put on themselves in relation to it is in stark contrast with how they behaved in the past in relation to local government.

Adam Tomkins is always very good at sounding plausible, but on this occasion he has been found out on amendment 14, so I encourage members not to agree to amendment 14.

15:00

**Patrick Harvie (Glasgow) (Green):** There is a phrase—an accusation—that is sometimes levelled at those of us who support the idea of Scottish independence, but which should on this occasion be levelled at Adam Tomkins: he is stoking constitutional grudge and grievance. That is the basis of what he is trying to do with amendment 14.

I cannot support any of the amendments in the group. Of the three, the most reasonable—at least at surface level—is amendment 49, in the name of Tavish Scott, which would require ministers to make

“a statement on their assessment of the impact of the draft instrument on the operation of the single market”.

We need clarity about what terms such as “single market”, “internal market” and “domestic market” really represent, but it might be thought reasonable that such an assessment should be made.

However, the implication of the proposed approach is that it would be the Scottish position—the position that would be proposed by a Scottish Government and endorsed, I presume, by the Scottish Parliament—that would create regulatory divergence. If there is regulatory divergence, it is the result of multiple positions that are not the same, so to blame one position rather than another and to say that divergence is because of a Scottish instrument, rather than a UK instrument that applies elsewhere, is, to me, to make an unrealistic assessment. It is unrealistic to say that a Scottish draft instrument is entirely responsible, or to estimate the proportion of divergence for which the Scottish instrument, as opposed to measures elsewhere, is accountable.

**Tavish Scott:** Mr Harvie has made an entirely fair point, which is why amendment 49 would involve all the Administrations and Governments

of the United Kingdom. That would deal with exactly the point that he has made.

**Patrick Harvie:** Amendment 49 merely requires that

“the Scottish Ministers must make a statement on their assessment of the impact of”

their

“draft instrument”.

**Tavish Scott:** There are other amendments to come.

**Patrick Harvie:** I still think that in fulfilling the proposed obligation, the Scottish ministers would find it to be an impossible task to disentangle the proportion of divergence that had resulted from actions that were taken in Scotland.

Fundamentally, though, the argument goes deeper in relation to amendments 14 and 14A—in particular, amendment 14, in the name of Adam Tomkins. I think that we all accept that common frameworks will be necessary in some areas—whether in respect of the current devolution settlement, post-Brexit devolution, if it happens, or if, one day—oh, happy day!—we were to be developing with our neighbours the same relationships as other independent countries have with one another.

Common frameworks will probably still be necessary, but common frameworks must be based on consent, and consent must be active, it must be entirely voluntary and it must be capable of being withdrawn at any time. To pass legislation that would restrict our ability to withdraw consent for a common framework would be entirely at odds with that basic principle. It is a principle that those of us who support independence should be concerned about; it is also a principle that those of us who believe in preserving and strengthening the union should be concerned about, because if there is to be an approach that is aimed at delivering genuine common frameworks, with genuine consent, assent and affirmation on all sides, Adam Tomkins is going the wrong way about it.

**Peter Chapman (North East Scotland) (Con):** I will be brief. I declare an interest, as a farmer, because my example is about farming.

To be honest, I cannot understand why any member of this Parliament could vote against amendment 14, in the name of Adam Tomkins. I also support Tavish Scott’s amendment 49.

The UK single market is vital to our farmers. Let me give one example. We export more than 80 per cent of our beef, and 90 per cent of that goes to England and we receive a premium in that market. Any restrictions on that trade would be disastrous for our farmers.



Farming is just one example. All Scottish trade depends to a large extent on the UK single market, so it is equally important for all our traders that the UK single market be protected. Therefore, I expect wide support for amendment 14.

**Johann Lamont (Glasgow) (Lab):** I want to make two brief points. I am aware of the briefing that has taken place on amendment 14. Like many other members, I have full respect for Professor Tomkins, but I have to say that I found his contribution to be utterly depressing. It served his party rather than the serious debate that we are having today.

It is not appropriate to suggest that the problem with which we have to wrestle is whether Neil Findlay attended a committee meeting. I say to Professor Tomkins and other members who are considering supporting amendment 14, that the biggest strength of the United Kingdom is that the people of Scotland see their friends across the border as people with whom they wish to work and co-operate, and not as folk from whom they want to be separate. The strength of the United Kingdom is that the people of Scotland see that they are stronger and not weaker in it. We therefore should not see amendment 14 as some kind of litmus test of our commitment to the United Kingdom.

My second point is further to the comments that Neil Findlay made to the minister. I realise that we are dealing with stage 3 amendments, but I would be grateful if the minister could respond to this. It took Parliament two years to repeal the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. The plan seems to be that, if we can get a deal with the UK Government, we will repeal right away the act that the continuity bill will become. That undermines the integrity of the work that has been done on the continuity bill in the past few weeks.

I seek a commitment from the minister that he is already in discussions with the parliamentary authorities and party leaders about the scenario in which a deal is reached, in order to ensure full scrutiny of that deal and that the committees of the Parliament have the opportunity to have a full and detailed look at how the continuity bill has changed the landscape.

We are no longer where we were at the beginning of the process, when emergency legislation was first mooted. It is a matter of credibility that Parliament should not take weeks and give people huge amounts of work to do on amendments in producing legislation, only to turn round after a statement from the minister and say, "That's okay—we'll repeal the legislation." I would be grateful if the minister, when summing up on the amendments, would indicate what his plans are in that respect.

**Michael Russell:** I will address that point immediately. I have addressed it with Neil Findlay, but I am happy to do so with Johann Lamont. I appreciate the work that has been done in scrutinising the proposed legislation, and I will say more about that later. The work of all parties has improved the bill, and that will be clear this afternoon; it is clear from the number of amendments that we have accepted from members of all parties to improve the legislation. Clearly, there would need to be scrutiny in circumstances in which the Government came to the chamber and said that, under the act—there is a provision on that, which has also been changed during the process—we did not wish to proceed with it.

I accept that the bill has changed the landscape, and I hope that it has done so positively. We have pointed to areas in which there need to be change and divergence. An example of that is the protection of environmental principles, on which we have moved forward as a result of the hard work of a number of members, to whom I pay tribute. They include Claudia Beamish, Tavish Scott and Mark Ruskell, who have all been involved in that process.

There have also been changes in relation to protections on employment rights, which Neil Bibby, James Kelly and Neil Findlay have been engaged with. Later, we will consider an amendment relating to health, which Anas Sarwar has engaged with. There have been areas in which we have improved the bill and issues that we have raised. I give the same commitment that I gave to Neil Findlay. We will come back to the Parliament and discuss with the other parties the ways in which we can take those things forward. Neil Findlay agreed to write to me on the issue. I am happy to sit down with him and talk those things through, and we will come back to the chamber with recommendations.

Let me deal with the amendments in the group, which I must say are thought-provoking. However, in the case of Professor Tomkins's amendment 14, the thoughts that it provokes are not entirely positive. The idea that Mr Findlay and I would unite happily as the bogies in favour of independence is so unlikely as to be the work of fantasy, and I do not often fantasise about Mr Findlay.

**Neil Findlay:** There is always a first time.

**Michael Russell:** Indeed, and I hope that that first time does not arise.

In those circumstances, Professor Tomkins's argument is ludicrous.

Given that amendment 14 comes from a professor of constitutional law, it is important to say that it is littered with undefined and imprecise

concepts. One asks oneself why a professor of constitutional law would come to the chamber with an amendment that cannot possibly operate. Could it possibly be because he wants the amendment to be a blockage to the operation of the bill? I simply ask the question. For example, the meaning of “UK single market”, which appears in the heading but not in the body of the amendment, would be contested. There is a precise meaning for the EU single market, but there is no definition of a UK single market because that is not the right term. There is an internal market, but it is not a single market within the European definition. Do we want the lawfulness of regulations to be dependent on—to take another example—whether a court considers that they would impede “cultural activity and behaviour”? I am sure that not even my distinguished friend the Cabinet Secretary for Culture, Tourism and External Affairs would endeavour to define that phrase in a way that the courts would be happy with.

However, while the language in amendment 14 is imprecise, the intention is precise enough. If this is—as it might be—the manifesto for making Ruth Davidson the First Minister in 2021, it is absolutely clear what the Tories want to do: to make every action of this chamber subject to a decision of the UK Government. If that is their manifesto, I think that the only thing that Ruth Davidson will go on to win will be “The Great British Bake Off”.

Amendment 14 is also unnecessary, since, as Tavish Scott indicated, every party in the chamber—including the Scottish Government—is seeking agreement on frameworks that would support the highly integrated markets that exist across the UK. Mr Harvie is right: even in the case of independence, there would be a requirement and a need to have frameworks operating so that we could move forward in a way that is productive for all of us. That is one of the principles that we agreed with the UK and Welsh Governments when we began discussing those frameworks.

**Patrick Harvie:** Will the minister give way?

**Michael Russell:** Let me just finish making this point.

Regrettably, there is only one Government in these islands that seeks to separate itself from a single market—and it is not this one.

**Patrick Harvie:** The minister has alluded to the point that I was about to make. Does he agree that if we were eventually to embark on a course to independence, we would in no way wish to impede the freedom of movement of people throughout these islands in the way that those in the UK Government wish to impede it throughout Europe?

**Michael Russell:** I entirely agree with that. Freedom of movement is not only productive and

helpful; it is essential for a whole range of sectors in Scotland. Impeding it in that way would be very destructive.

I turn to Neil Findlay’s amendment 14A. I think that it is proposed in the right spirit and that it agrees with the issues of equity, which is important. It is very tempting to have the opportunity to vote twice against the Tory amendment: once to support Mr Findlay and once to vote against the whole thing. I see that temptation, but I will not commend amendment 14A to the chamber. The bill is not the place in which to resolve the questions that face these islands about the complexities of governance after Brexit should it take place. The place to resolve such questions is at the negotiating table between Governments, and in putting those agreements to the Parliaments across the UK.

**Neil Findlay:** He says that with no hint of irony.

**Michael Russell:** Last year, the Welsh Government—

I missed that point from Mr Findlay, but I will take an intervention from him.

**Neil Findlay:** The minister says that with no hint of irony whatsoever. We want him to get back to the negotiating table and get things sorted out, so he should get there.

**Michael Russell:** I spend most of my life sitting at negotiating tables—as does Mr Findlay’s friend and colleague Mark Drakeford—and I will be very happy to do so again. I was about to say that, last August, the Welsh Government put forward a set of proposals on adjusting the governance in these islands. It came up with new ideas and I was very enthusiastic that they should be discussed. However, nothing has happened.

This afternoon, in the House of Lords, there will be consideration of the devolution clauses in the withdrawal bill. There is an amendment from Lord Mackay of Clashfern, with whom I have had the great privilege of discussing these issues in recent days. I know that he will say the same in the House of Lords this afternoon. I do not agree entirely with his amendment but he, too, is tackling the issue of how there should be different relationships and whether there should be what we might call a council of ministers for the isles. Even distinguished, thoughtful Tories—real experts in matters of constitutional politics—are looking at how such things should be adjusted.

Therefore I cannot recommend supporting either the amendment from Professor Tomkins or, unfortunately, that from Mr Findlay. In any event, the bill is about what happens—what will need to happen—if we cannot come to an agreement. I have been clear from the beginning that we will seek its repeal if we come to an agreement that is

approved by this chamber. I stress that point: provision in the bill could never bring about that agreement.

15:15

I turn to amendment 49, which is in the name of Tavish Scott. How could we be tied in the use of our powers in the bill to the concept of

“the single market in goods and services within the United Kingdom”

if there is no definition of that? In any case, there is already divergence. An example of that is the minimum unit pricing for alcohol.

If we were to apply a definition of the single market as it appears to exist—even though it does not exist in the UK—we would be in breach of that definition in some areas. Indeed, when we come to issues such as environmental protection and employment protection, we would find ourselves in considerable trouble.

I understand what the member is trying to do but, unfortunately, it would not be possible to do what he seeks. I admire how Tavish Scott’s amendments had a greater success rate than almost any other set of amendments at stage 2 but, on this occasion, I cannot accept his amendment.

The bill is about asserting the Parliament’s right to legislate. At the heart of Adam Tomkins’s amendment 14 is the abdication of that right to legislate. We cannot support his amendment now; we would never support it. I recommend that members vote against the amendments in group 1.

**The Presiding Officer:** I call Adam Tomkins to wind up on amendment 14.

**Adam Tomkins:** It is important to start with an understanding of why it is important to protect the union post-Brexit, not only for the United Kingdom but for Scotland. Scotland trades more than four times as much with the rest of the UK as it does with the whole of the EU.

The Labour Party sometimes talks about having a jobs-first Brexit. More than four times as many jobs in Scotland’s economy depend on trade with the rest of the United Kingdom as depend on trade with the whole of the European Union. Therefore, it is imperative that, right at the top of the Brexit process, we in Scotland combine to protect Scotland’s rightful place at the heart of the United Kingdom. My amendment seeks to do that—no more and no less.

Of course, amendment 14 is written in general terms. The proposed new section belongs at the beginning of the bill rather than being buried somewhere in the middle of it. Some people have

criticised me for putting it too soon in the bill and others have criticised me for not putting it soon enough.

It is a continuity provision in a continuity bill. I noticed that Mr Crawford was completely incapable—or perhaps unwilling—to respond to my rather elementary point that my provision would change nothing, but simply safeguard that which needs to be safeguarded after Brexit. No element of my amendment, if it is read in good faith, would make impossible, unlawful, illegal or difficult a smoking ban or differentiated tax rates between Scotland and the rest of the United Kingdom. However, not all contributors have sought to read it in that light.

Mr Findlay’s contribution was absolutely extraordinary for two reasons. First, he said that he could not support my amendment because it focused on the “Scottish Ministers”. The whole bill focuses on Scottish ministers; that is entirely the problem. The bill, if passed, would empower Scottish ministers—not ministers of the Crown, Welsh ministers or anybody in Northern Ireland—to do any number of huge and extraordinary things post-Brexit, none of which we should be permitting.

Secondly, Mr Findlay said that he wanted to put a time limit on the extent to which the Parliament protects the union. I do not want to put a time limit on that. The union has endured for three centuries and it should endure for three more. I do not want to put a clock on that. It is extraordinary that Mr Findlay, who is representing the Scottish Labour Party, wants to timeline the protection that this Parliament gives to the union.

**The Presiding Officer:** I call Neil Findlay to wind up, and to press or withdraw amendment 14A.

**Neil Findlay:** I have nothing to add; we have made our position clear. Both speeches by Mr Tomkins have shown him up for what he is. Clearly, he takes his orders from the Prime Minister’s office; he has nothing to add.

**The Presiding Officer:** Okay, Mr Findlay.

**Neil Findlay:** The Tories are trying to depict themselves as the champions of devolution. Today, they have been shown up for everything that they are.

I press amendment 14A.

**The Presiding Officer:** The question is, that amendment 14A be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division. This is the first division of the day, so there will be a five-minute suspension.

15:19

*Meeting suspended.*

15:24

*On resuming—*

**The Presiding Officer:** We move to the division on amendment 14A.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)

Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harris, Alison (Central Scotland) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Mason, Tom (North East Scotland) (Con)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Tomkins, Adam (Glasgow) (Con)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 28, Against 100, Abstentions 0.

*Amendment 14A disagreed to.*

**The Presiding Officer:** The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)

Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)

Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 31, Against 97, Abstentions 0.

*Amendment 14 disagreed to.*

### Section 1—Purpose and effect of this Act

**The Presiding Officer:** We move to group 2. Amendment 18, in the name of Donald Cameron, is the only amendment in the group.

**Donald Cameron (Highlands and Islands) (Con):** Less than a month ago, Presiding Officer, you explicitly and unequivocally stated your view that the bill fell outwith the Parliament's legislative competence. In the three weeks in which this legislation has been rushed through, we have, at times, lost sight of that hugely significant point.

However, the fact remains that, for the first time in the history of this institution, the Scottish Government has proceeded in defiance of you, the Presiding Officer, and your expressed view that the bill falls outwith the scope of our powers. This is an historic moment. If the bill passes into law, the Parliament will be rubber-stamping legislation in direct contradiction of the very person—in fact, the only person—who is not just asked but compelled to give their view on legislative competence. That concept, it is said, lies

“at the heart of the scheme of devolution to which the Act gives effect”—

that is, the Scotland Act 1998—and anything outside competence “is not law”. Here we are, turning that carefully calibrated scheme on its head.

The Presiding Officer gave one reason why the bill falls outwith the Parliament's competence and, at stage 2, we provided other examples. We highlighted section 33 and schedule 1 as well as section 17(2) as instances of provisions that, in our view, lie outside the Parliament's legislative competence.

Amendment 18, in my name, attempts to assist the Government. It provides in section 1, which is an overarching provision dealing with the bill's purpose and effect, a safety mechanism to protect the Government and save it from itself. It ensures that the bill does not provide Scottish ministers with any powers that could be used in a way that would contradict the Scotland Act 1998—specifically section 29 of that act, which makes

provision for the Parliament's legislative competence.

The bill is holed below the waterline in many places as far as legislative competence is concerned. Amendment 18 provides a legal lifeboat for the Government, and I urge the minister to swim for it.

I move amendment 18.

**Neil Findlay:** We believe that amendment 18 is unnecessary and, indeed, unworkable, because, as Mr Cameron knows, the Parliament cannot legislate in contravention of the Scotland Act 1998. For that simple reason, we will not support amendment 18.

**Michael Russell:** The Tory obsession with boats today is rather interesting. We have seen the Tory MP for Aberdeen South throw fish from a boat in the Thames, and now we have Donald Cameron urging me to get into the water and swim towards the Tories. I will resist that blandishment.

15:30

Amendment 18 is, regrettably, another amendment from the Scottish Conservatives that is ostensibly directed at making provision on the face of an act of the Scottish Parliament that ministers must act within devolved competence, but it is actually an amendment to tell us to behave ourselves.

We discussed a range of similar amendments at stage 2. The reasons for rejecting the amendment are in line with the reasons that I gave at stage 2, one of which Mr Findlay has indicated. I believe that all those amendments from the Tories were rejected, and I urge members to reject amendment 18.

The issue of the bill's legislative competence has been given a full airing in the scrutiny process that we have been engaged in. Moreover, the Scotland Act 1998 makes specific provision for the situation that we are in. We are satisfied that the bill is within the competence of the Scottish Parliament for the reasons that the Lord Advocate has set out.

**Adam Tomkins:** Will the minister take an intervention?

**Michael Russell:** No. I want to make some progress.

There is no need to put in this bill—or in any other bill—provisions that say that ministers must exercise their powers according to the Scotland Act 1998. We are doing so. There is no question of ministers being able to use the powers in a way that does not accord with the devolution settlement.

**Adam Tomkins:** Will the minister take an intervention?

**Michael Russell:** No.

I heard the argument put on several occasions at stage 2, and we do not need it to be put again, as it was resoundingly defeated at stage 2. I believe that only the Conservatives backed it at stage 2, and I presume that that is where we will be on the matter in a moment.

There is a legal constraint on the Scottish ministers whenever they exercise any powers under an act of the Parliament. The Scotland Act 1998 tells us what is and is not within competence, and we would not support littering the statute book with such unnecessary provisions, which are, as I have said, designed only to remind the Government of what the Tories want us to do.

**The Presiding Officer:** I call Donald Cameron to wind up and to press or withdraw amendment 18.

**Donald Cameron:** Given the Scottish Government's cavalier attitude to the concept of legislative competence, the amendment remains completely necessary. The Scottish Government has real and grave problems with the bill's legislative competence. My amendment would allow the Scottish Government to exercise powers in a way that was within competence and in a manner that was conversant with the devolution settlement. I press amendment 18 and ask for support for it.

**The Presiding Officer:** The question is, that amendment 18 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)

Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)

Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 31, Against 97, Abstentions 0.

*Amendment 18 disagreed to.*

### **Section 10—Interpretation of retained (devolved) EU law**

**The Presiding Officer:** We move to group 3. Amendment 15, in the name of Tavish Scott, is the only amendment in the group.

**Tavish Scott:** Amendment 15 would toughen up the phrase “may have regard to” in the bill and would provide a more serious test that would give clearer guidance for retained EU law.

The amendment proposes that courts and tribunals must have regard to future European judgments that are relevant to their considerations. The Scottish court would retain the right to assess the significance of such judgments. If the withdrawal agreement between the UK and the EU says that there will be close regulatory alignment between the EU and the UK—as many of us hope there will be—a court or tribunal in Scotland would be encouraged by the provision to pay close attention to the determined meaning of the EU regulation.

The amendment would mean that it would be perfectly acceptable for a court or a tribunal, having been guided to consider EU judgments, to decide that none has significant relevance to the matter before it. My amendment would help courts to understand exactly what is expected of them and would help in the event that the UK had a relatively good withdrawal agreement with the EU on regulatory alignment.

I am grateful to the minister for his suggestions on how I could improve the wording of the amendment that was lodged at stage 2.

I move amendment 15.

**James Kelly (Glasgow) (Lab):** As Tavish Scott said, amendment 15 relates to group 3, which is on the status of judgments of the European Court of Justice and their impact post-exit day. As he suggested, he seeks to tighten up the provision in question by replacing the word “may” with the word “must”. However, at the same time, he seeks to introduce a relevance test, which would leave it open to the court to decide whether to give consideration to such judgments. Therefore, I do not believe that amendment 15 would have a material impact on the bill as it is currently drafted. That being the case, we are content with the current wording of section 10.

**Michael Russell:** I welcome amendment 15. Tavish Scott raised the issue that it addresses at stage 2. Although we understood the point, we thought that it was important to tidy up his amendment. His proposed provision would give a clear steer to courts and tribunals on their obligation to have regard to decisions of the Court of Justice when those decisions were relevant. Importantly, it would retain the courts’ discretion in that regard, which is the point that Mr Kelly made, but it would improve the situation, because they would be able to apply the duty in a flexible and proportionate way. For that reason, I recommend that members vote for Mr Scott’s amendment 15.

**The Presiding Officer:** I invite Tavish Scott to wind up and to press or withdraw amendment 15.

**Tavish Scott:** I simply press amendment 15.

**The Presiding Officer:** The question is, that amendment 15 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)



Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

## Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 74, Against 54, Abstentions 0.

*Amendment 15 agreed to.*

## Section 11—Dealing with deficiencies arising from UK withdrawal

**The Presiding Officer:** We turn to group 4. Amendment 19, in the name of Neil Findlay, is grouped with the amendments that are listed in the groupings paper.

**Neil Findlay:** My amendments seek to replace the word “appropriate” with the word “necessary” and to remove the phrase “the Scottish Ministers consider”. We believe that the use of “necessary” instead of “appropriate” and the removal of “the Scottish Ministers consider” would result in a more objective process than the one that is provided for in the bill.

We recognise that it will be necessary to adapt retained EU law to enable it to work appropriately in Scotland. That should be the case on or after exit day. In order for that to be done within the timeframe available, we must confer some powers on ministers. However, my amendments seek to ensure that the use of those powers is “necessary” rather than simply “appropriate”.

We can all agree that the process should be above party politics and that it should be as representative as possible. That being the case, it is clear that we must make sure that any deficiencies in the bill are open to reasonable challenge. By replacing “appropriate” with “necessary” and removing any reference to “Where the Scottish Ministers consider”, we can achieve that. It is not sufficient to allow what ministers consider to be appropriate to guide the process; the public deserve and expect what is necessary to be done. My amendments would address a democratic imbalance and make ministers more accountable to Parliament.

We reject amendment 23, as it seeks to reverse a position that was previously agreed to at stage 2.

I move amendment 19.

**Michael Russell:** This group contains a large number of amendments that are aimed at the regulation-making powers in the bill. Many of the issues that are covered by the amendments and, indeed, the wording of some of the amendments themselves were considered and rejected at stage 2.

Let me start by setting out the considerable changes that have already been made to the bill with the aim of tightening the scope of, and increasing the scrutiny of, those regulation-making powers. I know that those are matters of concern to Parliament. I understand that concern, and the Scottish Government has responded to it.

The Delegated Powers and Law Reform Committee made a specific recommendation about the equivalent powers in the EU withdrawal bill. It recommended that the test should be in two parts: the power should only ever be available where a test of necessity is met, and once that test is met, ministers should be empowered only to make the provision that they consider appropriate. Therefore, “necessary” and “appropriate” sit together. We have included that test of necessity

in the continuity bill. It is not in the EU withdrawal bill. Under the continuity bill, Scottish ministers will be able to use the main fixing powers only where it is necessary to do so, with a test of necessity in the bill.

On introduction, the bill already reflected the recommendations of the Parliament’s committee that is dedicated to the scrutiny of statutory instruments. At stage 2, a number of amendments were made to the scope of those powers. The bill contains an exhaustive list of types of deficiency, and those had tests of necessity added to them by Opposition amendments at stage 2. For example, the type of deficiency that is described in section 11(2)(d) now exists only where it is “necessary” to “make provision ... in connection with”

EU

“arrangements which ... no longer exist”

as a result of Brexit.

Those are both substantial and meaningful additional restrictions on the use of the powers in the continuity bill.

The position in the bill is the product of concessions that have been made by the Scottish Government and amendments that were made by the Finance and Constitution Committee at stage 2. When that committee finished its consideration of the bill in the chamber, late at night last week, I gave a commitment that the Government would return at stage 3 with a proposal to reverse any of the changes only if doing so was required to keep the bill operable—in other words, if the changes would prevent the bill from being able to do its job of preparing our laws for EU withdrawal.

Neil Findlay’s amendments 22 and 29, unfortunately, would do that. They would replace that second test that I described—that of allowing “appropriate” provision to be made once the test of necessity is met—with a further test of necessity. That is not what the Delegated Powers and Law Reform Committee recommended, and it would actually make the powers, in effect, impossible to exercise.

Sometimes, the type of provision that is required to address a deficiency in devolved law will require a choice to be made—for example, about which domestic body will take on a function that is currently exercised by the EU, or about how to adjust a reference to an EU instrument so that it continues to work after withdrawal. Having to make that choice might be necessary, and the bill already requires that, but having to choose the best options from a range of them could never be necessary.

Neil Findlay’s amendments 19 to 21, 26 to 28 and 45 also seek to constrain ministerial discretion

in a way that could not work. They remove references to the Scottish ministers considering things to be necessary before the powers can be used, but they beg a question: if not the Scottish ministers, who will exercise these important powers? The tests of necessity and appropriateness and all the other legal tests in the bill will have to be considered to have been met by someone, and that someone will of course be the Scottish ministers. It will be the Scottish ministers' judgment and discretion that are scrutinised when the regulations come before Parliament for scrutiny, and it will be the Scottish ministers who will be held to account. It could never be otherwise.

I mentioned at stage 2 the Government's desire to make sure that the right balance is struck. As part of that balancing exercise, I actually commend to the Parliament Jamie Greene's amendments 31 to 34. They make four further changes to the substance of the power in section 13, changing the word "appropriate" to the word "necessary". That brings section 13 into line with changes that were made to sections 11 and 12 at stage 2.

Those amendments also address a concern that was raised at stage 2 by Graham Simpson, who suggested use of the word "operable". We consider that use of the word "necessary" represents a higher test and should address that concern, particularly given the other amendments that the Government has lodged and supported in respect of the keeping-pace power.

As I said, I committed at stage 2 to seek to reverse any amendments that were made at that stage only if, after carefully considering them, I concluded that their effect was to render the bill or part of it inoperable. I have concluded that there is only one such amendment, and I seek the Parliament's support in adjusting the position back. Amendment 23 proposes to change the word "necessary" back to "appropriate" in section 11(2)(f)(ii), but not in any of the other parts of the test. That is the one area where we believe that the deficiency has to be described by reference to the standard of appropriateness.

The provision is concerned with a deficiency in law that arises where retained EU law does not contain any functions that should be kept after withdrawal. The test was amended at stage 2 so that it referred to a lack of functions

"which it is necessary to retain".

However, that could not work, because leaving the EU could arguably leave many functions, which we might all wish to retain, unnecessary. There could be functions that we would all be desperate to see kept going but which, being strictly not necessary, had to be disposed of

because of the amendment that was made at stage 2. For example, if there was an annual report that had to be submitted to the European Commission on a matter of environmental concern, keeping that function going after withdrawal could never be said to be necessary by the tests in the bill, but it might be appropriate to decide that the function of receiving the annual report should be conferred, instead, on the Scottish Environment Protection Agency. Amendment 23 would allow such changes to be made; without it, we could be bound in law to eliminate functions that we want to keep. Taken with Jamie Greene's amendments, which we support, it would mean that the same scheme applied across sections 11, 12 and 13.

15:45

I stress again that we have not lodged amendments to seek to reverse the new word "necessary" in sections 11(2)(c), 11(2)(d), 11(2)(e) or 11(2)(g), because we accept those changes. If the Parliament votes for my amendment 23 and Jamie Greene's amendments 31 to 34, the result will be a strong set of logical limits on the ministerial powers in the bill that will be applied consistently across the bill's provisions and which will have been strengthened at stages 2 and 3.

I invite the Parliament to reject amendment 54, which, in relation to the publication of a statement by ministers, would remove the words

"in such manner as Scottish Ministers consider appropriate".

That is the same wording that is used in the EU withdrawal bill. I repeat that we do not think that the removal of those words would add anything at all to the bill. The Scottish ministers will be responsible for publishing those statements and, of course, they would have to do so in an appropriate manner.

I urge the Parliament to vote for amendment 23, which I will move, and for amendments 31 to 34, and to vote against the other amendments in the group.

**Jamie Greene (West Scotland) (Con):** My amendments 31 to 34 relate to section 13, which gives Scottish ministers the power to make provision corresponding to EU law after exit day. It has perhaps been one of the most contentious areas of the bill, and we spent many late hours in the chamber debating it at stage 2. As it stands, the bill has sections that would allow the Scottish Government to continue to implement new EU law, directives and regulations after exit day—after the UK has left the EU and after the transition period has ended. It is quite reasonable to assume that we might see a situation whereby Scottish ministers will choose to implement EU laws,

without having any representation in the European Parliament, no Scottish MEPs, no representation in the Council of the European Union and no Scottish representation in the European Committee of the Regions.

If the bill is passed today, Scotland would be a rule taker rather than a rule maker and the principle of no legislation without representation would simply disappear. The Scottish ministers want to implement laws when our only influence on them would be through lobbying efforts in Brussels and Strasbourg. That position is simply unacceptable to Conservative members. Section 13, as it stands, is nothing more than a back-door attempt to create regulatory divergence and conflict in the UK. A cynic might say that the Scottish National Party wants additional powers to adopt any EU regulations that it sees fit to help Scotland meet the criteria of the *acquis communautaire*, in what seems to me a desperate attempt to align itself with Brussels. This Parliament should never forget that the SNP wants to rejoin the EU and hand all those powers back to Brussels. My amendments, to replace the word “appropriate” with the word “necessary”, are therefore important.

The power to pass EU law into Scots law after exit day should be used only out of necessity, not when Scottish ministers consider it “appropriate”. What is appropriate to me might be different from what is appropriate to the minister, the Parliament or, indeed, the country. However, there might be circumstances in which it is necessary to transpose EU regulation—for example, to maintain frameworks in which Scotland and the UK continue to participate after exit or when it makes logical sense to do so.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Will the member take an intervention?

**Jamie Greene:** I am making my closing comments.

My proposal means that Scottish ministers would still have the power to make changes, but must do so out of necessity alone and not for subjective reasons. If the provision is agreed to unamended, the Scottish Parliament will simply be handing ministers a blank cheque.

I say to all members that it does not matter whether they voted remain or leave; what is important is that the bill does not attempt to undermine the result of a UK-wide referendum on the European Union, nor should it be a back-door excuse for the SNP to hand powers back to Brussels.

**Tavish Scott:** I am a little puzzled by Jamie Greene’s speech because, if I heard the minister correctly, he said that he will accept amendments

31 to 34. I also agree with Jamie Greene’s amendments. They are consistent with the amendments that we debated at stage 2. I appreciate his arguments, so I think that his speech was perhaps out of line with the fact that Parliament will probably agree to his amendments in a couple of minutes.

I also support the minister’s amendment 23, given that the change that was needed at stage 2 by my amendment means that section 11(2)(f)(ii) is protected by a test of reasonableness that is mentioned at the start of section 11(2). I take the minister’s argument on that.

I certainly support Neil Findlay’s amendments. I note the minister’s concerns about them, but much of the Parliament’s concern has been about the need to restrict appropriate ministerial discretion and allow a more objective test to be in the bill. I agree with the argument that Neil Findlay made on that point.

**Patrick Harvie:** I am not sure what is more surprising: Jamie Greene’s anger at his amendments being accepted, or the speed with which Conservative members—who, a couple of years ago, said how important it was to protect our place in Europe and that being a member of the European Union was a good thing—have become angry at the fact that some of us still think as they did.

I accepted in general terms the two basic arguments that were put forward at stage 2.

**Brian Whittle (South Scotland) (Con):** Will the member take an intervention?

**Patrick Harvie:** No, thank you.

I accepted in general terms the change of language, but I also indicated that, where the Government thought that it was important, for technical reasons, to revisit some of those specific areas, I would be open to that argument. I am pleased that the minister has found it necessary to do that in only one place, and I accept his amendment.

In most instances, I did not accept the arguments that Neil Findlay made when he moved his stage 2 amendments, which were about ministers having the ability to consider something—in other words, that the views of ministers would have a role, and that there would not just be an objective test. I fear that if we had gone down that road, we would have ended up with a number of potential lengthy and significant legal challenges to ministers taking action to introduce instruments and regulations because somebody felt that they had not met an objective test, when that objective test had not been defined in the legislation. If there is to be an objective test, how it is to be met must be clear. I still take the

view that it would not have been clear if we had gone down the road suggested by Neil Findlay's amendments.

**The Presiding Officer:** I call Neil Findlay to press or withdraw amendment 19.

**Neil Findlay:** I press amendment 19.

**The Presiding Officer:** The question is, that amendment 19 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)

Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)

Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 19 disagreed to.*

*Amendment 20 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 20 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)

Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)

Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 20 disagreed to.*

*Amendment 21 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 21 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)

McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)

McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 21 disagreed to.*

*Amendment 22 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 22 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)

Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)



Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 58, Against 68, Abstentions 0.

*Amendment 22 disagreed to.*

*Amendment 23 moved—[Michael Russell].*

**The Presiding Officer:** The question is, that amendment 23 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and

Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)

Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 73, Against 54, Abstentions 0.

*Amendment 23 agreed to.*

**The Presiding Officer:** Amendment 24, in the name of the minister, is grouped with the amendments shown in the groupings. If amendment 40 is agreed to, I cannot call amendment 3 in group 6.

**Michael Russell:** The amendments in this group are technical amendments to tidy up the bill following amendments agreed at stage 2, and to make some minor improvements. The amendments are minor.

Amendments 24, 25, 30, 35, 40 and 42 reflect the intention of amendments agreed by the Finance and Constitution Committee at stage 2 to prevent the main powers in the bill being used to establish new public authorities. Tavish Scott raised the issue at stage 2. Accordingly, the bill is being amended to ensure consistent prohibitions on doing that and to remove unnecessary references to the power.

Amendment 36 takes out the word “broadly” so that section 13 matches the changes that the committee agreed to sections 11 and 12 concerning the modification of rights and protections. If I remember correctly, Mr Dean Lockhart was successful with his amendment on the word “broadly” at stage 2.

16:00

Amendments 57 and 64 take up a Law Society of Scotland technical suggestion to use the standard definition of “enactment” in the Interpretation and Legislative Reform (Scotland) Act 2010. I am grateful to the Law Society of Scotland for its interest in this bill. It has commented on each stage and although I have not agreed with all its comments, some of them have been very useful. We are happy to welcome this suggestion.

Amendment 46 is a minor clarification of the consultation requirement in section 15. The requirement to provide reasons for considering it necessary to make provision to prevent, remedy or mitigate a deficiency applies only to a consultation on proposed regulations under section 11(1).

Amendments 55 and 59 correct minor typographical errors in the wording of the two provisions to which they refer.

I recommend that members agree to these amendments.

I move amendment 24.

**Neil Bibby (West Scotland) (Lab):** As the minister said, these are largely minor technical or correcting amendments. A number of amendments in this group effectively streamline changes made at stage 2. Amendments 57 and 64, in the name of the minister, provide welcome clarity in relation to the definition of an “enactment” for the purpose of the bill. I join the minister in thanking the Law Society of Scotland for its invaluable input and interest in the bill. Given that the amendments are largely minor and technical, my Labour colleagues and I are minded to support all the amendments in the minister’s name.

**Tavish Scott:** I support amendments 25 and 30, which stop new public authorities from being created under section 11 or section 12. Many of us argued at stage 2 that if ministers want to establish a new quango to keep pace with EU law, they should introduce primary legislation so that Parliament can decide whether such a new body is required or whether its functions could be dealt with by existing bodies. The minister’s amendments extend that to sections 11 and 12. I am grateful to the minister for accepting that argument. Like Neil Bibby, I support the other technical amendments in this group.

**The Presiding Officer:** The question is, that amendment 24 be agreed to. Are we agreed? We are agreed. [*Interruption.*]

**The Presiding Officer:** Sorry, I beg your pardon. I did not hear a no. Please shout loudly.

The question is, that amendment 24 be agreed to. Are we agreed?

**Members: No.**

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harris, Alison (Central Scotland) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)

Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Mason, Tom (North East Scotland) (Con)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Tomkins, Adam (Glasgow) (Con)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 128, Against 0, Abstentions 0.

*Amendment 24 agreed to.*

*Amendment 25 moved—[Michael Russell]—and agreed to.*

### **Section 12—Complying with international obligations**

*Amendment 26 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 26 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### **For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)

Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### **Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 58, Against 68, Abstentions 0.

*Amendment 26 disagreed to.*

**The Presiding Officer:** The question is, that amendment 27 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)

Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)

Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 58, Against 69, Abstentions 0.

*Amendment 27 disagreed to.*

*Amendment 28 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 28 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)

Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)

Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 68, Abstentions 0.

*Amendment 28 disagreed to.*

*Amendment 29 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 29 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)

Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)

(SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 57, Against 69, Abstentions 0.

*Amendment 29 disagreed to.*

*Amendment 30 moved—[Michael Russell]—and agreed to.*

### **Section 13—Power to make provision corresponding to EU law after exit day**

*Amendments 31 to 34 moved—[Jamie Greene]—and agreed to.*

*Amendments 35 and 36 moved—[Michael Russell]—and agreed to.*

**The Presiding Officer:** We turn to group 6. Amendment 37, in the name of Tavish Scott, is grouped with the amendments shown in the groupings. If amendment 5 is agreed to, I cannot call amendment 41, as it will be pre-empted, and if amendment 40 is agreed to, I cannot call amendment 3.

**Tavish Scott:** I say to the Conservative chief whip, Maurice Golden, that it is usually the Liberal Democrats who cannot sort out how they are voting on an amendment, so I have utter sympathy for him at this moment.

I hope that amendment 37 in some ways helps Patrick Harvie in relation to the debate that we had on the first group of amendments. At stage 1, I spoke about the need for Governments across the UK to co-operate. Scottish ministers should consult the other three Administrations prior to taking action to keep pace with EU law under section 13 after exit day. Every political party has spoken about the need for those framework agreements and co-ordination across the UK as powers are allocated from March 2019.

Amendment 37 says that, in the event that every one of the other three Administrations specifically asks the Scottish Government not to make a particular regulation to keep up with UK law, that

regulation cannot proceed. However, if ministers wished to make such a regulation, given that background, the proposal would have to be made through primary legislation. The Parliament would therefore be able to look at the proposal in detail and we could consider why the other Administrations were opposed to it. The Parliament would be able to hear from businesses, business interests, environmental groups and other stakeholders. We would be able to protect the working of the UK internal market that other members have mentioned from action by a single Administration.

Amendment 37 represents what I would describe as a federal idea of co-operation, and it is in direct contrast to the Conservative approach, which puts control of these issues entirely in the hands of UK ministers.

Amendment 61 makes the commencement of section 13, which was the section of most concern to members prior to stage 2, subject to the affirmative procedure, requiring a vote in Parliament. It must be preceded by a report from ministers setting out clearly their justification for using the powers in section 13.

The bill is being dealt with through a truncated scrutiny process, so amendment 61 allows Parliament to consider further, at a later date and therefore with due consideration, the keeping-pace powers that are being sought by ministers. It reflects the concern that has been expressed through the amendments that Mike Rumbles has lodged to remove section 13 from the bill, which were intended to repeat the amendment that was debated at stage 2. Those amendments make it clear how important it is for all of us to accept that section 13 powers are extensive and, in that sense, special. It is why section 13 has been singled out by amendments at stage 2, and further amendments today, to restrict the powers that ministers have under section 13.

Today, at stage 3, I ask the Parliament to consider locking the commencement of section 13 behind an affirmative process that would allow every member of this Parliament to vote on it after due consideration in the months ahead.

I welcome amendment 41 from the minister, which replicates an amendment that I moved at stage 2. The amendment would make sure that all section 13 orders were subject to the affirmative procedure. I recognise that the minister has significantly changed his position since stage 1.

Ash Denham's amendment 38 requires ministers to report on section 13 powers, and I support that.

I move amendment 37.



**Mike Rumbles (North East Scotland) (LD):** I have lodged a number of amendments in this group to deal with section 13 powers, which are extensive powers. I see Neil Findlay smiling at me, because he got in seconds before I did at stage 2 to lodge a similar amendment. Amendments 2 and 4 are points of detail that ought to be agreed by members across the chamber, and amendment 3 will be pre-empted by amendment 40.

The minister's amendment 41 would make all of the section 13 powers subject to the affirmative procedure, and I welcome that improvement.

Amendments 2 and 4 simply tidy up the wording to remove the duplication that would otherwise exist in section 14(2).

I am pleased that section 13 powers will be locked behind an affirmative procedure. That means that every MSP will get the opportunity to vote for them or to reject them whenever they come before us.

My amendment 1 repeats an amendment that was lodged at stage 2 to remove section 13 from the bill completely. It was important at stage 2 and it is important today to show just how significant the powers in section 13 are and how very careful ministers must be in exercising them.

**Ash Denham (Edinburgh Eastern) (SNP):** Amendment 38 responds to concerns that members expressed at stage 2 about the Scottish Government's ability to renew the keeping-pace power. The minister gave a commitment that any proposal by the Government to renew the power would be accompanied by details of how the power had been used up to that point. That would ensure that the Parliament was fully informed about the use to which the power had been put when it was considering any proposal to renew the power for a further period.

Amendment 38 would require annual reports to be prepared on the use of the keeping-pace power. It would require reports to be laid before the Parliament as soon as possible after the end of each year. That would mean that, if the Scottish Government proposed to renew the keeping-pace power, the Parliament would be able to consider and scrutinise the ways in which the power had been used before it made its decision.

16:15

**Michael Russell:** As we know, the amendments in this group concern the keeping-pace power. I recognise, as I have done since the bill was introduced in the Parliament, that concerns about the power are honestly and strongly held by members across the Parliament. I have spent a lot of time talking about those concerns and reflecting

on them—before stage 2, during stage 2 and again now.

Let me say at the beginning that I continue to believe that it will be necessary to have a power of this sort, to help us to smooth the transition from implementing EU law under section 2 of the European Communities Act 1972 to legislating without having the structure of the 1972 act sitting behind so many fields of law. The keeping-pace power is a practical, useful power to have. It will therefore come as no surprise that the Government will not recommend that the Parliament agree to amendment 1, in the name of Mike Rumbles, which would delete the power entirely.

Yesterday, during stage 3 of the Forestry and Land Management (Scotland) Bill, Mike Rumbles mentioned the power in section 13 of this bill and suggested that ministers do not know what to do with such powers. Let me give him three examples of how the power might be used—I have used these examples in other places, but some members might not have heard them.

The first example is to do with fish disease. I speak as a former environment minister. European lists of fish diseases are constantly updated because, as new fish diseases occur, it is important that the aquaculture sector knows about them and can react to them. Our having a keeping-pace power simply means that, when the list is updated in the EU, it can be updated without primary legislation in this Parliament—a minor but exceptionally important thing to do.

The second example, which also relates to the environment, is about invasive species. There is a real danger from invasive species across the whole of Europe. If changes are made to the regulations in that regard, it is important that our domestic law changes, too, without primary legislation.

The third example is to do with animal health, which is an area in relation to which we have discussed and continue to discuss the need for a framework. That framework needs to be updated with information from elsewhere.

All those examples are comparatively minor uses of the power, but they are of vital importance to the sectors concerned. There is a need for a keeping-pace power, and there are places where that need can be reflected.

We have adjusted the power since the bill was introduced—Mr Scott referred to that. Let me indicate how the power has been adjusted. The changes that were made at stage 2, the changes that have been debated today and the changes that will be made by amendments in this group should be—I hope—sufficient to address members' concerns and result in a keeping-pace

power that is proportionate, usable, flexible and subject to the most appropriate standard of scrutiny in the chamber and committees of this Parliament.

The Government has always accepted that the power should be sunsetted. At stage 2, Murdo Fraser presented the committee with what he called a “menu” of choices on the length of time for which the power should be capable of being renewed. I cannot express great enthusiasm for à la carte legislating, but I think that the result that was reached at stage 2 was a fair one. The initial period for which the power will be available is now three years, with annual renewal thereafter. Because of another amendment that was agreed to at stage 2, renewals cannot keep the power in force for longer than five years in total.

The effect of the amendments was well summed up by Patrick Harvie in the committee. If, as we approach the end of the five years, the Government—whatever Government it is—takes the view that the power is a good and necessary one, and if it can demonstrate that by pointing to examples of its use, it can return to the Parliament with a bill—primary legislation—seeking the power’s enactment. That sounds right to me. As I have said, the power is intended to smooth the transition between one approach to legislating and another during a period of enormous uncertainty over precisely what we will be legislating for.

At stage 2, Tavish Scott was successful with an amendment that removed the ability to use the power to set up public authorities. Another amendment at stage 2, which meant that the urgent procedure could not be used for section 13 regulations, was successful. The Government has accepted those amendments and has not sought to reverse them.

Earlier today, during stage 3 consideration, we accepted a number of amendments that were lodged by Jamie Greene, which replace tests of appropriateness in section 13 with tests of necessity, bringing the tests in section 13 into line with other tests in the bill.

That brings me to the amendments in the group, which contain the final set of changes that I think are required to address Parliament’s concerns. My amendment 41, taken with Mr Rumbles’s amendments 2 and 4, which I will support, will ensure that all regulations that are made under the keeping-pace power are subject to the affirmative procedure as a minimum. That means that the Parliament will be given a positive vote on every proposal to use the keeping-pace power to change devolved Scots law, corresponding to a change in EU law.

The Government also supports Ash Denham’s amendment 38, which would give statutory form to

a commitment that I made at stages 1 and 2. We would only ever seek the renewal of the keeping-pace power where we were able to demonstrate to Parliament its usefulness and appropriateness. Ash Denham’s amendment therefore requires us to lay before Parliament annually a report on the uses to which the power has been put, which is a process that was suggested in a different context at stage 2. That means that Parliament will be fully informed about any proposal to renew the power and will be able to scrutinise in the round the uses to which the power has been put.

I cannot recommend that Parliament accept Tavish Scott’s amendments 37 and 61. Amendment 37 would give the UK Government, the Welsh Government or any part of the Northern Ireland Executive, acting together, an effective veto over a power held by the Scottish Government and Parliament. In line with the memorandums of understanding, we keep other Administrations well advised when our legislation touches on matters that are within their responsibility. Although I recognise and respect the concerns that lie behind amendment 37, a veto is unnecessary and surely cannot be right.

Amendment 61 would make the commencement regulations to bring the keeping-pace power into force subject to the affirmative procedure. I believe that that, too, is the wrong approach. Commencement regulations are not usually subject to procedure, for good reasons of principle and practice. Parliament makes the decision whether a delegated power should be conferred at the point when it agrees the inclusion of that power in primary legislation. At that point, Parliament will have the opportunity to scrutinise the Government and debate the proposal to confer the power. It would not be useful, or indeed sensible, to have that debate once again using subordinate legislation procedure or to use the setting of the commencement date as, in effect, a proxy for the substantive question.

I have set out the Government’s reasons for seeking Parliament’s approval of the power as well as the significant package of changes that were made to the power at stage 2 and that are being made today at stage 3. I hope that that will be enough to satisfy Parliament that the power is being taken for good reasons and that, if the bill is passed later today, it will confer on the Government a flexible and practical power, but one that is no more flexible than is necessary and one in which the Parliament is centrally involved at every step. I therefore recommend that members vote for amendments 2, 4, 38 and 41 and against the other amendments in the group.

**Neil Bibby:** At stages 1 and 2, my Labour colleagues and I made no secret of our reservations about section 13, which is widely

regarded as the most controversial section. I have made that point on a number of occasions, as have committee witnesses, and the minister has accepted it previously and again today. Although the minister has not changed his view that section 13 is necessary, I acknowledge his remarks on it today and during the stage 2 proceedings.

The minister has accepted the need for “scrutiny and restraint” in relation to section 13, and he has been clear that the power must be “properly used” and “limited”. Those remarks have provided some reassurance, as has the Scottish Government’s openness to amendments in the area. As the minister said, at stage 2, Murdo Fraser’s amendments 169 and 173, which limited the timescales within which section 13 powers can be exercised, were accepted. Today, I welcome amendment 38, in the name of Ash Denham, which introduces regular reporting on the use of section 13 powers. I also welcome Tavish Scott’s amendment 37 and the minister’s amendment 41, which makes the use of section 13 powers subject to the affirmative procedure.

Section 13 still grants significant and far-reaching regulation-making powers to the Scottish ministers. Throughout the process, I have made clear my concerns about the section. I would prefer it not to be in the bill at all. However, if it is to be in the bill, we should ensure that it goes ahead with the maximum parliamentary scrutiny and that checks and balances are built into the bill. For those reasons, I am minded to support all of the amendments in the group, if they are moved.

**Neil Findlay:** Section 13, on the power to make provision corresponding to EU law after exit day, has been one of the most problematic sections. Initially, it sought to concentrate power over regulations in the hands of ministers and away from Parliament. I would have preferred to see the whole section removed—indeed, Labour lodged such an amendment at stage 2 but it was not accepted by the Parliament, and the amendments that have now been lodged by parties across the Parliament have diluted and put much more control and restraint on ministerial powers. For that reason, we will support those amendments and reject moves to hoard powers in ministerial hands at the expense of Parliament.

**Patrick Harvie:** I put on record that, as Mike Rumbles knows, during the stage 2 debate I misinterpreted comments that he had made earlier. I apologise to him for doing so. The wider point that all of us should acknowledge—Mr Rumbles is right to remind us of it—is that the powers in section 13 are extremely significant and that, by approving them, we will do something that should trouble us all, including ministers.

We should be troubled by the situation that we face, and I do not believe that that situation, which

will be coming at us through the Brexit crisis in the coming years, will be manageable if we delete section 13 altogether. That would be unreasonable. Members from other parties who took part in the stage 2 process know that I voted for a number of significant restrictions to those powers and others in the bill. All Opposition parties have managed to achieve changes that strike the appropriate balance, and I am grateful that the ministers are not seeking to reverse all of those but have accepted that a balance needs to be struck.

Mr Russell has clearly said that, in a much shorter timescale, the Government will be able to return and ask Parliament to change that provision, if necessary. The Government will not have the comfort of knowing that those powers will be there for an extended period of time. I think that we have got the balance about right, given the deeply imperfect and wrong situation that we have to face.

I will talk briefly about Tavish Scott’s amendments in this group. I understand the case that he makes for something closer to a federal relationship. As long as we are part of the UK, a case can be made for something that feels more like such a relationship between the Governments of these islands. However, I see no appetite at all for that elsewhere. It takes more than one—in this case, more than two—to tango. If we have an Administration in Northern Ireland that does not even exist and another at the UK level that is a minority Government, I see no reason why a letter from a secretary of state—or even a resolution of the Westminster Parliament—should block this Parliament from taking action that, by a majority, we consider needs to be taken or should be supported. Therefore, I am afraid that I do not support amendment 37.

The minister knows that I have been open to amendment 61. I listened to his comments and I am still not clear why the minister thinks that that amendment is unworkable. It requires an affirmative procedure for the regulations that would bring section 13 into force, and only a one-month period between the laying of a report about such issues and the laying of the regulations. Given that I do not anticipate that he wants to lay regulations bringing that section into force within a month from now, that seems reasonable.

I have listened to the minister, but, if he wants to intervene and give me a clearer reason for not supporting amendment 61, I will listen to him. However, I am currently tempted to support that amendment because I have not heard a clear reason for its being unworkable. I understand that it might be inconvenient for the minister—

**The Presiding Officer:** Mr Harvie, the minister will not have a chance to wind up. Mr Scott will

wind up on this section, so, if you wish to hear from the minister—

**Patrick Harvie:** I was merely indicating that, if the minister wanted to intervene, I would accept an intervention, but he has not offered one.

**Michael Russell:** I hoped that I had made a cogent case for rejecting amendment 61. Although I am not unsympathetic to it, I believe that it places the issue of the commencement date in yet another piece of subordinate legislation as a proxy for the substantive argument. Normally, a substantive argument, not a commencement date, is the subject of subordinate legislation. I consider that that is the right thing to do, but there are occasions when all the parties in the chamber will differ. If Mr Harvie differs on that matter, I understand.

**Patrick Harvie:** I finish my comments on group 6 by merely saying that, although I understand why amendment 61 feels uncomfortable to ministers, is not unworkable.

16:30

**The Presiding Officer:** I call Tavish Scott to wind up and to press or withdraw amendment 37.

**Tavish Scott:** I take Patrick Harvie's point. On amendment 61, if I caught the minister right, he said that such an approach was not usually used. However, he has also said that we are not, in any possible context, in the usual circumstances—and I entirely agree with him. I hope that Patrick Harvie and other colleagues across the chamber accept the argument that the amendment would add an extra layer of accountability. I appreciate that that would be uncomfortable for the Scottish ministers, who consider that they have gone far enough already, but, this afternoon, Parliament is making the argument that amendment 61 adds to the scrutiny process.

On amendment 37, I take the minister's and Patrick Harvie's point. If that section were a veto, I would not support it either. They need to listen to the other part of the argument that I made. If ministers considered that they had made the right case for an important policy change, the amendment would allow them—indeed, it would encourage them—to introduce primary legislation in that policy area, which Parliament could then scrutinise. All that I have sought to argue for in section 30 is a level of scrutiny and parliamentary accountability. I consider that to be consistent with the concerns of members across the chamber about the whole of section 30, which, as the minister rightly said, is a very different beast to the one that we started with three weeks ago. On that basis, I press amendment 37.

**The Presiding Officer:** The question is, that amendment 37 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59 , Against 69, Abstentions 0.

*Amendment 37 disagreed to.*

*Amendment 1 not moved.*

### After section 13

*Amendment 38 moved—[Ash Denham]—and agreed to.*

**The Presiding Officer:** We turn to group 7. Amendment 39, in the name of Claudia Beamish, is grouped with amendment 56.

**Claudia Beamish (South Scotland) (Lab):** Amendment 39, which is supported by Colin Smyth, would oblige Scottish ministers “to have regard to” environmental and animal welfare guiding principles when exercising the regulation-making powers in sections 11(1), 12 and 13(1). The regulation-making powers would enable Scottish ministers to ensure that devolved EU law continues to operate effectively, to comply with international obligations and to keep pace with developments in EU law after UK withdrawal.

It is important that the continuity bill make explicit reference to the five guiding principles that are included in my amendment 39. Although the general principles are included in the Charter of Fundamental Rights of the European Union, the guiding principles are not enshrined in the same way. I stress that proposed subsection (4) is worded to take account of principles that have not been through the European Court of Justice. Ministers should have regard to such principles whether or not there is case-law precedent. They are vital in focusing minds on environmental decision making and have real application in Scotland.

I will give some quick examples. The precautionary principle ensures that we do not take action when there is doubt. It was used in discussion about emerging evidence that fish-farm chemicals can damage burrowing animals' nervous systems in the food chain, and can damage marine ecosystems in the longer term.

The principle that preventative action should be taken to avert environmental damage has delivered action on air pollution and air quality. Glasgow City Council just this week referred to preventative action in its plans for the first low-emission zone and retrofitting of buses.

Ensuring that environmental damage is rectified at source is the third principle. It is essential in preventing, for example, eutrophication that is caused by animal waste entering our water courses, which causes burns and rivers to become overly rich in minerals and nutrients, and thereby to become overgrown with water plants and, likely, to be depleted of oxygen.

The polluter-pays principle has real importance for our communities as well as for our environment. In 2013 the Court of Session's ruling on opencast coal mining sites ensured that former mines are maintained by the Scottish Coal liquidators, in order to prevent further environmental damage. It also ensures that the cost of such things is not met by public money. The Dalquhandy opencast site, in my region, is a clear beneficiary of that principle, in respect of forced restoration.

Finally, there is the recognition that animals are sentient, on which Colin Smyth will say more.

For years, EU directives and treaties have focused our minds on air, marine and terrestrial environmental issues. It is fundamental that those be enshrined in our laws through the continuity bill.

I also speak in support of Mark Ruskell's amendment 56. A duty to consult is essential for guiding principles and governance in relation to the environment. It is an important obligation because it relates to compliance with the law and to effective implementation of it. The timescale in the amendment is also valuable.

I have already highlighted the significance of the guiding principles in my remarks on my amendment 39 through some examples; there are many more that I do not intend to rehash.

I support amendments 39 and 56.

I move amendment 39.

**Mark Ruskell (Mid Scotland and Fife) (Green):** We might be leaving the European Union, but we are certainly not leaving our environment. Amendments 39 and 56 are vital because they would save and retain the important guiding principles that have protected our environment and animal welfare in recent years.

Not only would they protect the principles as they exist at the moment, but they provide a foundation to build on progress and to build future policy and future laws that will protect our environment for the decades to come.

I thank colleagues across the Labour and Liberal Democrat parties and I thank the minister for the constructive negotiations that we have had in developing amendments 39 and 56. This is what mature politics looks like. There are no wrecking amendments in this group—there are only amendments that will stop our environment being wrecked.

Claudia Beamish outlined the importance of the principles in amendment 39. For me, the principle of animal sentience is absolutely vital. We see animals as sentient beings and not simple commodities to be traded across boundaries.

The principles are part of our everyday work. In the Environment, Climate Change and Land Reform Committee on Tuesday, our entire debate about salmon conservation was dominated by our interpretation of the precautionary principle. That is the right thing, and it should continue.

Amendment 56, in my name, would ensure consultation on how we interpret the principles after withdrawal. It would bring clarity about the functions that public bodies have in monitoring and regulating our environment. It would also ensure, I hope, that there is not a governance gap, on withdrawal.

The role of the European Court of Justice is particularly important in that regard. We should think about how instrumental the ECJ has been in driving action on air quality across the UK. Anyone who has followed the debates on low-emission zones over the past couple of days will realise just how important it is that we have an independent body that can hold public bodies, including Government, to account.

I note comments by Ruth Davidson in today's *Scotsman*, backing environmental courts. Although the Tories were not involved in cooking up my amendment 56, I certainly hope that Ms Davidson and the Tories will support it as the best way of delivering environmental courts in Scotland. We need to put the matter out to consultation and drive the argument forward.

**Colin Smyth (South Scotland) (Lab):** At stage 2 I lodged amendment 3, which proposed that the principle behind article 13 of the Treaty on the Functioning of the European Union, which recognises the sentience of animals, be included as one of the general principles of EU law. Tavish Scott and Mark Ruskell lodged similar amendments. At the time, I did not press my amendment, because the minister committed to working with me and others on proposals for stage 3. Claudia Beamish's amendment 39, which I support, is the outcome of those discussions with the Government, so I want to record my thanks to MSPs from across the chamber, the minister and Scottish Government staff for their work in getting us to the stage at which amendment 39 could be lodged and—I hope—agreed with full cross-party support.

Amendment 39 would create a clear statutory underpinning for a number of vital issues, but I want to speak briefly about proposed subsection (3)(e) in the amendment, which relates to animal sentience. As I have said, the principle of animal sentience is currently enshrined in law in article 13 of the Treaty on the Functioning of the European Union; it is vital that it be protected as we move forward.

The sentience of animals is well established—the science is conclusive and the principle is implicitly recognised in other legislation. However, there is no space for complacency or, indeed, for legal ambiguity. Although the Animal Health and Welfare (Scotland) Act 2006 works to achieve aims that are based on the principle of animal sentience, that principle is not explicitly mentioned in that act: indeed, the scope of the legislation is narrow, and it does not cover free-living wild animals, animals that are used in scientific procedures or anything that is done in the normal course of fishing. Crucially, it applies to individuals who are responsible for animals, whereas article 13 applies to Government policy.

We must make it clear that we, as a Parliament, recognise the sentience of animals, and we must provide an unequivocal statutory basis for that principle. I therefore urge members to support amendment 39, which has been lodged by Claudia Beamish and which I support.

**Maurice Golden (West Scotland) (Con):** First, I make it clear that the Conservatives agree with the guiding principles on the environment and animal welfare. However, the codifying of EU law in the continuity bill would, in my view, ultimately be superfluous. International law already obliges us to apply the guiding principles as long as Scotland is a member of the UK, which is signatory to international treaties, and to which we are bound. On that basis, then, there is, for me, no reason to have constructed amendments 39 and 56, which have just been spoken to.

**Claudia Beamish:** Surely Maurice Golden will agree that some international laws are more or less robust than EU law, but that it is EU law that has set out the guiding principles—and, through the charter of fundamental rights, the general principles—for our laws in Scotland. It will be of concern if he does not acknowledge that and does not consider supporting amendment 39.

**Maurice Golden:** Again, let us be clear: EU law is, in this respect, undefined. I will articulate that particular point. Article 191 of the Treaty on the Functioning of the European Union mentions the principles only once, but it neither defines them nor elucidates what they mean for people who reference EU law.

Furthermore, article 191 states that

“Union policy ... shall”

take

“into account the diversity of situations in the various regions of the Union”

and that those principles shall be subject to the European Court’s interpretation. It strikes me, therefore, that amendments 39 and 56 are ultra vires, as the European Court would be outwith our

jurisdiction and interpretation of application of the guiding principles—which are undefined—could lead to the risk of environmental harm or, at the very least, to unwanted changes to environmental practices in Scotland.

With regard to the principles, I will, in the interests of time, provide one example. The precautionary principle was established through the Montreal protocol and was latterly codified by legally binding treaties—the Rio declaration and the Kyoto protocol. The UK is signatory to those treaties, so the principle comes within our auspices and falls within our competence with regard to our adhering to and dispensing environmental law in Scotland.

16:45

Let us now consider the EU. On 2 February 2000, a communication from the European Commission on the precautionary principle stated:

“in practice, its scope is much wider, and ... may be inconsistent with the high level of protection”.

Therefore, we would be leaving ourselves open by agreeing to the amendments without a definition. We do not know how the precautionary principle, undefined, would be applied. Are we looking at non-preclusion, a margin of safety, the best available technique or a prohibitory approach with respect to that application? We would be left wide open.

Amendments 39 and 56 represent bad law that is constructed badly and are, thus, entirely in keeping with the rest of the bill. There is no clarity, and a governance gap has been created. However, we support the rationale behind the amendments and recognise that the members have the best intentions. Therefore, we will support them.

**Patrick Harvie:** That is what we call throwing a googly at the end. Once again, we have heard a Conservative colleague condemning for several minutes amendments that we will all, ultimately, I am pleased to say, support.

Amendments 39 and 56 are really important. We know that environmental policy has been one of the things that Europe has been good at. We also know—we would be foolish to ignore it—that some of the people who are leading the Brexit charge in the UK Government are, for example, avowed climate-change deniers. They have been hostile to environmental policy on a range of issues and are ready to frack the country as much as they can. We need to ensure that our legislation passes the test of protecting the country against that agenda. The UK legislation monumentally failed that test, so I am very pleased that the continuity bill will not fail it.

I am also pleased that, after a stage 2 process in which three political parties brought different approaches to try to reach essentially the same outcome, they had the chance to sit down alongside the Government and figure out how to get agreement on the principles and on the actions that the Government needs to take to avoid a governance gap arising in relation to our environmental policy in Scotland. I am grateful to everyone who has put in the work over the past wee while to reach that point.

As the minister mentioned in the debate on the first group of amendments, there will be aspects of the legislation that will need to be maintained even if the minister eventually reaches agreement with the UK Government—I am not convinced that that is possible—and asks the Scottish Parliament to repeal the legislation after we have passed it. I cast cold water on that scenario, but if it happens, aspects of the legislation will need to be carried over—the guiding principles in question, on environment and animal welfare, being one. Now that we are agreeing on the matter across the parties, that needs to be preserved in our approach to the Brexit crisis, regardless of what happens to the legislation in the negotiation between the two Governments.

**Michael Russell:** I am pleased to agree to amendments 39 and 56 in the names of Claudia Beamish and Mark Ruskell, and I am grateful to them, to Colin Smyth and to Tavish Scott for working with the Government to refine their stage 2 amendments to ensure that appropriate regard can be paid to the guiding principles on environment and animal welfare. The amendments and a number of other groups of amendments have been the product of hard work between my officials and members. As Mark Ruskell said, that is how mature politics works.

As I said last week during stage 2, the purpose of the continuity bill is to ensure overall continuity of law rather than to make changes to our legislative or policy framework. However, the amendments that relate to the environment have allowed us to focus our attention on how the Government will best ensure that we are doing everything in our power to continue to maintain, protect and enhance our environment. That is a central concern of my friend and colleague Roseanna Cunningham.

The bill will already ensure that the precautionary principle, as a general principle of EU law, will continue to be part of Scots law. I said last week that I would ensure that the explanatory notes to the bill are amended to clarify that, and I have already shared with Ms Beamish, Mr Ruskell and other members draft wording that seeks to do just that.

Amendment 39 seeks to ensure that ministers will have regard to the guiding principles on the environment and animal welfare when they use the regulation-making powers under sections 11(1), 12 and 13(1) of the bill. Although all EU legislation that is rolled over through the bill will already have been informed by the principles, as part of the EU's policy development and decision making, amendment 39 will ensure that we consider the principles when we make regulations to correct deficiencies or to keep pace with EU law, including when ministers exercise the powers to rectify or alter duties or powers of public authorities.

Amendment 56 supports the Scottish ministers' clear commitment to carry through not just the letter of EU environmental law, but its spirit. Rightly, the scope of that discussion goes much wider than the bill. Amendment 56 will ensure that we consult on how the environmental principles can continue to guide future policy and legislation, and on how we can continue to have effective and appropriate environmental governance following the UK's withdrawal from the EU.

Amendment 56 does not include a commitment to consult on animal welfare principles because of discussions that are under way at Westminster. The UK is rightly considered to have some of the highest animal welfare standards in the world, and its strong tradition of developing legislation to prevent animal suffering goes back to 1822. The concept that animals are sentient and can experience emotions such as terror and fury, as well as being able to suffer physical and mental pain, was implicitly recognised in Scottish legislation more than a century ago. There is a clear understanding of animal welfare needs in more recent legislation that has gone through the Scottish Parliament—for example, the Animal Health and Welfare (Scotland) Act 2006.

The Scottish ministers have already agreed, in principle, to allow a bill that would introduce a duty for UK Government ministers to have regard to the welfare needs of animals as sentient beings to apply, in due course, to Scottish ministers, through a legislative consent motion. Following a recent consultation, we look forward to the introduction of a Westminster bill that includes such a requirement. If we need to take further action, it will be taken.

Amendments 39 and 56 make it clear that when we interpret the principles post-EU withdrawal, we will continue to consider how they are interpreted at EU level by the European courts, thereby ensuring that our understanding of the principles continues to be informed by EU case law.

We have always made clear our intention to continue to protect and enhance Scotland's environment, and to ensure that we are equipped



to continue to play a leading role in addressing global challenges to our environment. Amendments 39 and 56 will embed our commitments in law, and represent a different approach to the one that has been taken by the UK Government, in which no equivalent legislative commitments have been agreed in consideration of the withdrawal bill. As a former environment minister, it gives me particular pleasure to have made such progress on the continuity bill.

For those reasons, I recommend that members vote for amendments 39 and 56.

**The Presiding Officer:** I invite Claudia Beamish to wind up and to press or withdraw amendment 39.

**Claudia Beamish:** I am delighted to press amendment 39.

*Amendment 39 agreed to.*

#### **Section 14—Scrutiny of regulations under sections 11, 12 and 13**

*Amendment 2 moved—[Mike Rumbles].*

**The Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

#### **For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and

Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### **Against**

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)

Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 96, Against 31, Abstentions 0.

*Amendment 2 agreed to.*

*Amendment 40 moved—[Michael Russell].*

**The Presiding Officer:** I remind members that, if amendment 40, in the name of the minister, is agreed to, I will be unable to call amendment 3, due to pre-emption.

*Amendment 40 agreed to.*

*Amendment 4 moved—[Mike Rumbles].*

**The Presiding Officer:** The question is, that amendment 4 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)

Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)

Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 97, Against 31, Abstentions 0.

*Amendment 4 agreed to.*

**The Presiding Officer:** I remind members that, if amendment 5 is agreed to, I will be unable to call amendment 41 due to pre-emption.

*Amendment 5 not moved.*

*Amendment 41 moved—[Michael Russell].*

**The Presiding Officer:** The question is, that amendment 41 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)

Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 97, Against 31, Abstentions 0.

*Amendment 41 agreed to.*

*Amendment 6 not moved.*

*Amendment 42 moved—[Michael Russell]—and agreed to.*

**The Presiding Officer:** We turn to group 8. Amendment 43, in the name of Jamie Greene, is grouped with amendment 62.

**Jamie Greene:** At stage 2, I lodged amendment 227, which included a new reporting requirement.

In essence, it required Scottish ministers to lay before Parliament a report that detailed how many deficiencies in retained devolved EU law had been identified and how many regulations under section 11 would be laid before us as a result of that. I am pleased to say that, after much deliberation, that amendment was agreed to at stage 2. It provided for a welcome piece of scrutiny.

As often happens between stages 2 and 3, there has been discussion on how to further improve the bill. I discussed with the bill team some proposals to strengthen that reporting process, and thereafter I lodged amendment 62. The problem is that the first line of the amendment says, "Leave out section 36A". However, section 36A, which was inserted by another amendment that I lodged at stage 2, contains a much wider provision on a review of the entire act. It places a duty on ministers to lay a report before Parliament. Again, that was agreed to by consensus at stage 2.

I am afraid that, if amendment 62 were to be agreed to, section 36A would be taken away. In retrospect, I feel that it is an important section, and one on which there is consensus. This is really a consequence of the haste of the process that the bill has gone through. I thank the civil service team that has worked with me in recent days—indeed, in recent minutes—to see whether we could find a compromise but, as amendment 62 stands, with the wording "Leave out section 36A", I am unable to support it.

I therefore appeal to the minister to respect the status quo with regard to the amendments that were agreed to, by consensus, at stage 2; that includes the insertion of section 36A and the wording that I previously suggested on the issue of reporting. I appeal to the minister not to move his amendments if I do not press mine. If the minister insists on moving his amendments, I appeal to members not to support them.

I move amendment 43.

17:00

**Michael Russell:** A genuine difficulty has arisen for Mr Greene. As he said, his amendment 62 relates to the reporting requirements in the bill. At stage 2, there was a range of proposals on reporting, including one from Mr Golden. It was accepted at stage 2 that we would endeavour to bring together those reporting requirements so that the bill would work better. As I understand it, given the fast-developing situation this afternoon, there are two problems that Mr Greene has identified. First, he is concerned that his amendment 62 does not cover the identification of reporting and the number of deficiencies being provided in advance, as his original amendment

did at stage 2. I am happy to give a commitment on the record that that information will be provided in advance.

Until a few moments ago, I had hoped that that would be sufficient to address Mr Greene's concerns. However, I understand that there is now another objection in that, as he said, his amendment 62 would remove section 36A, which calls for a general review of the act. I want to see whether I can help with that problem, too. It is up to any committee to review any act and, in this case, I would expect the Finance and Constitution Committee, for example, to be willing to review the eventual act. If one of Mr Greene's two possible objections is about the number of deficiencies that are identified in advance, I will commit to the information about those deficiencies being provided in advance—there would be no difficulty in doing that. If the other issue is about there being no specific mention of a review, I would be very happy—although I cannot tell parliamentary committees what to do—to encourage a review of the eventual act by the Finance and Constitution Committee or any other committee at an appropriate time. Clearly, that is because I would like to keep reviewing the issues of Brexit.

In all those circumstances, amendments 43 and 62 would create a cogent and coherent system of reporting. That is why we wanted to make a change and why we agreed to have negotiations. I do not know how it happened, but it is clear that at some stage Mr Greene has lodged amendments that he now disagrees with. That happens, but I think that what my amendments propose is the best way forward and I therefore wish to move them.

**The Presiding Officer:** I invite Jamie Greene to wind up and say whether he will press or withdraw his amendments.

**Jamie Greene:** It is not the case that we have changed our minds. As the minister is aware, there was an earnest discussion between the Conservative group and his bill team on the wording of my amendments, which we worked together to improve. There is much to be welcomed by the Conservative group in the additional wording in amendment 62 around the mechanisms and how the minister will report to the Parliament. However, the problem is the inadvertent addition of the line that seeks to remove an entire section of the bill that we added at stage 2 on a consensual basis. I think that section 36A should remain, so I am disappointed that the minister has chosen to move his amendments.

**Patrick Harvie:** Will the member give way?

**Jamie Greene:** Very briefly.

**The Presiding Officer:** Tavish Scott—I am sorry, Patrick Harvie. [*Laughter.*]

**Patrick Harvie:** He is much taller than me, Presiding Officer, but let us say nothing more about that.

I am trying to understand the situation with Mr Greene's amendments, because they seem a little puzzling. Earlier, Jamie Greene was very angry at the minister for accepting one of his amendments and now he is arguing against his own amendments in another group. It would have been helpful if he had got in touch with all members and all political parties to discuss any concerns that he had with the amendments. We have looked at amendments 43 and 62 and I think that they will improve the bill compared with where we were at stage 2. Can he try to be specific about what has changed since he lodged amendments 43 and 62?

**Jamie Greene:** I am very happy to provide that clarification.

I agree with Mr Harvie about the additional wording in the amendment that was proposed to us by the bill team, and I was happy to lodge amendment 62 on that basis. The deficiencies arise from the removal of the wider review of the bill, which is in section 36A. In the new section that would be inserted by amendment 63, the reporting that the minister will have to do relates only to sections 11 and 17 of the bill—I stand to be corrected if that is not the case. Under my original section 36A, which was discussed at great length at stage 2 and which possibly had the support of Mr Harvie, the entire bill would be reviewed—not just sections or parts of it. We throw up our hands and say that, had that been spotted earlier, I would not have lodged the amendment. I apologise for that. As it stands, I would like to keep section 36A in the bill, because it is important that we ensure that Parliament reviews the entire bill and not just bits of it, as the minister proposes.

**The Presiding Officer:** Does the member wish to press or withdraw amendment 43?

**Jamie Greene:** I wish to withdraw it.

**The Presiding Officer:** The member wishes to withdraw amendment 43. Are we agreed?

**Michael Russell:** No—I want to press the amendment.

**The Presiding Officer:** The question is, that amendment 43 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)

Adamson, Clare (Motherwell and Wishaw) (SNP)

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)

Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)

Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 97, Against 31, Abstentions 0.

*Amendment 43 agreed to.*

#### **Section 14A—Additional scrutiny of proposed regulations**

*Amendment 7 not moved.*

**The Presiding Officer:** We turn to group 9. Amendment 65, in the name of Graham Simpson, is grouped with amendments 66, 44 and 44A.

**Graham Simpson (Central Scotland) (Con):** I will speak to amendments 65, 66, and 44A as the convener of the Delegated Powers and Law Reform Committee. The committee agreed unanimously to lodge the amendments at its meeting yesterday morning. Presiding Officer, I thank you for agreeing at that late stage to accept them.

The amendments are all concerned with ensuring that Parliament is able to apply effective and proportionate scrutiny to regulations that are made under the bill.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** As Mr Simpson will be aware, since our committee meeting yesterday, David Torrance and I have withdrawn our support for those amendments as a consequence of receiving information that was not available at the time of the committee meeting.

**Graham Simpson:** The member changed his mind, but I said that we were unanimous at the meeting, which we were. I am sorry that the member has raised the issue, but I will address that in my summing up.

The amendments relate to section 14A as amended at stage 2. Amendment 44 seeks to replace the section. Section 14A and amendment 44 provide different approaches to the creation of a sifting process, whereby a parliamentary committee—my committee in the case of amendment 44—can decide that the procedure attached to a Scottish statutory instrument made under sections 11, 12 or 13 is incorrect, and that a different procedure should be attached. The committee has a longstanding interest in the issue. The idea of Parliament having a role in the setting of the procedure for regulations is one that the committee recommended in its report on the EU withdrawal bill.

When the committee met yesterday morning, it could see the merits in the approach taken in section 14A. It provides that regulations made under sections 11, 12 and 13 should be subject to a pre-laying sifting process of 15 days, during which a committee of Parliament can decide that the procedure attached to regulations should be different from the one proposed by Scottish ministers. Section 14A(7) provides that Scottish ministers are required to change the procedure attached to the regulations if a committee has made such a recommendation.

In that regard, section 14A is a welcome improvement on the approach taken in the EU withdrawal bill, under which ministers are not

bound to proceed in accordance with the decision of the Parliament.

Amendment 44 would replace the section with a new section 14A and would put in place a new sifting process while retaining some of the section's features, such as the binding nature of the committee's recommendation. The crucial difference in approach is that the sifting process would take place once the amendment had been laid. That would mean that, if an instrument is subject to the negative procedure, that could be changed to the affirmative procedure, if that is what the committee recommended, within 20 days of laying.

Amendment 44 would also establish a new process at proposed new section 14A(10) that would allow instruments to be categorised as urgent and therefore not subject to the sifting process. When it looked at that provision yesterday, the committee accepted that there might be a need for such an urgent procedure, but it was not otherwise persuaded by the new approach that is taken in amendment 44. Specifically, the committee was concerned about the loss of the pre-laying period for scrutiny that is provided for in section 14A. The committee was concerned that undertaking the process during normal scrutiny of an instrument would damage the quality of parliamentary scrutiny—this is the important point—because members will be using the first 20 days of scrutiny to consider whether the right procedure has been attached to an instrument rather than considering the content of the instrument. Changing the procedure would not mean restarting the clock so that there would be a new 40-day period for scrutiny once the instrument was subject to a higher level of scrutiny. The instrument would continue to progress through the same 40-day period while being subject to a different procedure. The change in procedure could also be accompanied by a change to the instrument, which would make parliamentary scrutiny even more challenging in the reduced time period.

The committee was also concerned about the effect of amendment 44's proposed new sections 14A(6), 14A(7) and 14A(8). They provide that the resolution of the Delegated Powers and Law Reform Committee changing the procedure attached to a negative instrument implies that the instrument has been revoked and that nothing further may be done under the regulations. The committee was concerned about the absence of public notice of such a revocation and the impact that that might have on those affected by the relevant law. How would those who are affected know that the instrument had been revoked?

With those concerns in mind, the committee considered that section 14A as amended at stage

2 was preferable, subject to the addition of the urgent procedure that is provided for in amendment 66. The committee agreed yesterday to encourage Parliament to retain that approach.

Amendments 65 and 44A amend section 14A and amendment 44 to provide for the sifting process that I have described to apply to regulations made under section 19. Section 19 provides Scottish ministers with a power in relation to fees and charges. The bill provides that the first exercise of this power—[*Interruption.*] I wonder whether Mr Arthur could stop chattering. It is rather distracting.

**The Presiding Officer:** Members should please pay attention when they are in the chamber.

17:15

**Graham Simpson:** The bill provides that the first exercise of this power is subject to the affirmative procedure. Subsequent exercises of the power are subject to the negative procedure, although there is no limit on what those subsequent exercises of the power can do.

The committee has been of the view that the affirmative procedure is appropriate for the first use of the power and that it should also be applied to future exercises of the power. It is quite conceivable that future exercises of the power will provide for significant and material increases in fees and charges and it would seem appropriate for regulations providing for such increases to be subject to the affirmative procedure. Equally, the scrutiny applied to regulations should be proportionate. Therefore, it would be more appropriate for regulations that provide for less significant increases in fees and charges to be subject to the negative procedure.

Accordingly, the committee agreed yesterday to lodge amendments to apply the sifting process to regulations made under section 19 so that Parliament can take an informed view of the appropriate scrutiny procedure to attach to an instrument based on its content.

I move amendment 65.

**Ross Greer (West Scotland) (Green):** Graham Simpson has covered the principles of the arguments that we are making, so I will not repeat them. Suffice to say that I was very happy that at stage 2 Parliament, through the committee, agreed that it should be us as a Parliament who decide collectively the appropriate level of scrutiny for the changes that will be made through the process. Specifically, that means that it should be Parliament, through our committees, that decides what kind of instrument should be used.

I lodged amendment 44 to define a more workable process. It addresses some of the valid

concerns that were raised at stage 2. People did not disagree with the principle—we all agreed with that—but there were concerns about how workable we could make the process.

Fair concerns were raised that the 15-day pre-laying scrutiny period that was originally proposed would cause significant delays for instruments coming through, particularly negative instruments making very minor changes, of which we are all expecting a substantial volume at certain points in the process. We found a solution to that, which was to extend the scrutiny process by extending the 15 days to 20 days within the DPLR Committee's existing 20-day scrutiny period. Given the relationship between scrutiny of what form of instrument should be used and scrutiny of the substance—how they dovetail—we believe that to be an appropriate solution.

Members will notice that there is a new provision in amendment 44—this is also addressed by amendment 66—that specifies that the urgency provisions in section 13(1) can override the sifting arrangements. That was intended in the original section 14A, but it was not explicit. Making it explicit is an improvement.

It is an improvement that is safeguarded. I do not think that any of us are particularly comfortable with the urgency provisions, but we recognise their necessity. My amendment to section 31, which was agreed to at stage 2, gives Parliament the opportunity to suspend those urgency powers if it believes that they have been used inappropriately. This is a safeguarded process.

There were areas where we disagreed with some of the concerns raised. I did not believe that it would be appropriate to remove the super-affirmative procedure; that option should be available to committee. It is ultimately for a committee's judgment whether that procedure is appropriate.

I hope that members will recognise that we have taken the principle that was agreed to at stage 2 and created a more workable process for it through amendment 44.

**Neil Findlay:** We support the amendments in this group as they provide for enhanced scrutiny of regulations by this Parliament. We note the letter and the comments by the convener of the Delegated Powers and Law Reform Committee on the amendments and we support the establishment of the sifting procedure, whereby a committee has a say and can change the process, and the enhanced scrutiny provided by the use of the affirmative procedure and the increase in the number of days. I understand that where fees and charges are minor, the negative procedure would be more appropriate.



The Delegated Powers and Law Reform Committee takes the role of this Parliament in scrutinising legislation very seriously and these changes are about standing up for Parliament over ministers.

**Daniel Johnson (Edinburgh Southern) (Lab):** I will speak briefly in support of these amendments. In the stage 1 debate, I said that if we are seeking to protect devolution, the issue is as much about how power is exercised as about what powers we have. The proposals that Ross Greer and the committee have brought forward to enact and implement a sifting procedure are sensible. They do just that. They will ensure that the powers that ministers exercise that were previously exercised democratically in the European Union are exercised democratically in this Parliament, which is very important. For those reasons, I support the amendments.

**Michael Russell:** As Ross Greer indicated, I accepted at stage 2 the principle that, given the exceptional circumstances of Brexit, the Scottish Parliament should have a strong role in determining the procedure under which Brexit-related statutory instruments should be scrutinised. I also emphasised the need to ensure that such a sifting process, which we accepted, would be flexible and proportionate enough to allow the Government to plan its legislative programme with an appropriate degree of certainty.

The whole business of this legislation is to find a middle way between Brexit itself and the great burdens that it places upon this Parliament and country—the people of this country did not vote for it—and the time available. We have to find a way through; therefore, striking a balance is the issue.

I am pleased to acknowledge that, in our opinion, amendment 44 from Ross Greer, which has replaced the amendment that he lodged at stage 2, strikes the right balance. I am grateful to him for developing an approach that preserves the role of Parliament in determining whether an instrument has been laid under the appropriate procedure while making the provision more workable in practice. We went through hard negotiations to achieve that, but, in the end, we have an amendment that works. That is why it was lodged in due time.

The specific issue that Ross Greer's amendment 44 addresses is the need to align the sifting process with the Delegated Powers and Law Reform Committee's other scrutiny functions once an instrument has been laid. That ensures that the timescales for laying and scrutinising subordinate legislation remain manageable. The amendment also ensures that there is an option to disapply the sifting process in genuinely urgent cases. I believe that that is a sensible provision to

include, albeit one that I hope we will not have to use.

Finally, members will want to be aware that Ross Greer's stage 3 amendment puts in place a much stronger framework for parliamentary control than the equivalent provision in the withdrawal bill, which gives the UK Parliament only an advisory role. For those reasons, I welcome amendment 44 and encourage members to vote for it.

Members will note that Graham Simpson sent a letter to the Presiding Officer yesterday, proposing an alternative approach. He wishes to retain the pre-laying sift approach that Ross Greer proposed at stage 2, but I believe that that would be a mistake. It would require a 15-sitting-day sift to be allowed for all statutory instruments developed under the bill before they could be laid, regardless of their significance. That is disproportionate and would make planning the programme of subordinate legislation required as a consequence of Brexit being imposed on us extremely difficult and potentially unmanageable. Building in a 15-day pre-laying period, along with the possibility of every instrument being upgraded to the enhanced affirmative procedure, would make the scheduling of the already complex programme of legislation required lengthy and, ultimately, very difficult for the Government and Parliament to predict or plan for.

Let me give members two facts on that. First, 15 days for 300-plus instruments equates to 900 more weeks in a timetable that we already know and that is already bearing down upon us. Secondly, as Ross Greer has indicated, the 20-day period is an extension and not merely for considering whether sifting should take place. I respectfully disagree with Graham Simpson's letter on that issue. The 20-day period can, of course, be used for that consideration as well.

Ross Greer's new approach, via amendment 44, is an efficient, flexible and proportionate approach without any loss of parliamentary control. In fact, it increases parliamentary control and addresses the objections of the Delegated Powers and Law Reform Committee. I encourage members to oppose Graham Simpson's amendment 65.

The Delegated Powers and Law Reform Committee has also lodged amendment 44A, which seeks to apply the sifting procedure to section 19, which is the

"Power to provide for fees and charges"

in connection with the functions of Scottish public authorities. That would ensure that section 19 instruments were also subject to the sifting procedure. Members may not know that I have been in correspondence with the committee about the matter and have pointed out that the model for fees and charges in the bill is proportionate and

reasonable. Its initial use will be subject to the affirmative procedure, so members will be absolutely in charge, and subsequent adjustments—which will be, in the greatest part, very minor—will be subject to the negative procedure.

The financial memorandum sets out, in paragraphs 20 to 22, the guidance for calculating fees and charges, and it notes that bodies that are sponsored by the Scottish Government must comply with the processes that are set out in the Scottish public finance manual. As the fees and charges regime that is set out in the bill builds on standard forms and the fees and charges that are levied will be calculated in the standard way, as they are now—because, of course, it is a continuity bill—according to the robust governance and guidance that is set out in the Scottish public finance manual, the Government's view is that the provision in the bill is appropriate and sufficient. I therefore encourage members to oppose amendment 44A.

The Delegated Powers and Law Reform Committee has also lodged manuscript amendment 66, helpfully recognising the urgency that can exist even if amendment 44 is not agreed to. I would support that on a contingent basis, but I strongly recommend that members support Ross Greer's amendment 44, which was arrived at after great negotiation and is fully respectful of the stage 2 process and all things flowing from it. Amendment 44 would provide a better solution to the difficult circumstances that this Parliament finds itself in.

**Graham Simpson:** I thank everyone who has spoken on this group of amendments. Mr Russell talks about striking a balance, and that is what we are trying to do.

I commend Ross Greer for lodging amendments on this matter in the first place. He is trying to ensure effective scrutiny, and he is to be congratulated for that. That is what the Delegated Powers and Law Reform Committee, of which I am the convener, is all about. Yesterday was the very first opportunity that the committee had to look at amendment 44. I saw the wording over the weekend but, as far as I know, the committee had not seen it. Yesterday was our first meeting since the amendment was lodged, so it was the first opportunity to consider and discuss it—and discuss it we did.

We came to the conclusion that amendment 44, in Ross Greer's name, would have the unfortunate effect of not allowing enough scrutiny time to deal with Scottish statutory instruments. I said earlier that the committee was unanimous on that point; however, the situation changed. The deputy convener changed his mind, as did one of his colleagues. Unfortunately, that appears to have

happened as a result of some strong-arming by ministerial colleagues. *[Interruption.]*

**The Presiding Officer:** Order—let us listen to Mr Simpson.

**Graham Simpson:** It is a most unfortunate episode—*[Interruption.]*

**The Presiding Officer:** Order, please.

**Stuart McMillan:** Mr Simpson will be aware that the discussion that we had in private session yesterday was very thorough—we agree on that. However, Mr Simpson will also be aware that some important information was withheld from the committee during our discussion. As a consequence, the initial decision that I and my colleague took was very much not based on the full facts. That information should have been presented to every member of the committee—*[Interruption.]*

**Graham Simpson:** The so-called pertinent information was that I had had a telephone conversation with Mr Russell on Friday in which he told me that the Government planned to back a further amendment. I had not seen the wording of that amendment—I have covered that point. My conversation with Mr Russell consisted of Mr Russell telling me what he proposed to do. Clearly, the time and place to deal with that as a committee was when the committee met, and that is what we did yesterday. That is the position.

I move amendment 44A.

17:30

**The Presiding Officer:** The question is, that amendment 65 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)

Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)

Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 60, Against 68, Abstentions 0.

*Amendment 65 disagreed to.*

*Amendment 66 moved—[Graham Simpson]—and agreed to.*

*Amendment 44A moved—[Graham Simpson].*

**The Presiding Officer:** The question is, that amendment 44A be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)

Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)

Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 44A disagreed to.*

*Amendment 44 moved—[Ross Greer]—and agreed to.*

#### Section 15—Consultation on draft proposals

*Amendment 45 moved—[Neil Findlay].*

**The Presiding Officer:** The question is, that amendment 45 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)

Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 45 disagreed to.*

*Amendment 46 moved—[Michael Russell]—and agreed to.*

**Section 16—Explanatory statements: appropriateness, equalities etc**

*Amendment 8 not moved.*

**The Presiding Officer:** We move to group 10. Amendment 47, in the name of Neil Bibby, is grouped with amendments 50 and 52.

**Neil Bibby:** I will speak to amendment 4 and I will speak in support of amendments 50 and 52, in the name of the minister, which are on the same issue.

Before the bill's stage 2 proceedings in the extended meeting of the Finance and Constitution Committee last week, I lodged a number of amendments for consideration, the purpose of which was to ensure that any regulation-making powers that are granted to the Scottish ministers as a result of the bill would not remove or weaken EU-derived rights and protections in relation to five key areas: employment, equalities, health and safety, consumer standards and the environment.

There is real concern that Brexit could undermine the rights and protections that we currently enjoy as members of the European Union. Let us be clear that that cannot and should not be allowed to happen. Although I did not move my stage 2 amendments, the minister gave a commitment to find a way of addressing at stage 3 the concerns that I and others, including Patrick Harvie, had raised.

The amendments in group 7 and this group are a result of that process and of constructive dialogue with the Scottish Government and Mr Harvie, which I welcome.

My amendment 47 would expand section 16, which is on explanatory statements, so that when the Scottish ministers lay an instrument or draft, they would be required to make a statement explaining what effect, if any, it would have on

“rights and duties relating to employment and health and safety”

and

“matters relating to consumer protection”.

The sifting process that a number of members and the Scottish Government have envisaged would be informed by those explanatory statements and would help to determine the best level of parliamentary scrutiny to apply to any instruments or drafts that are laid.

Some members may recall concerns at stage 2 about whether similar amendments encroached on reserved areas. My stage 3 amendment therefore makes it clear that the requirement to make such

an explanatory statement applies in so far as any effect is within devolved competence. For clarity, devolved competence is defined as being

“within the meaning of section 54 of the Scotland Act 1998”.

The amendments in the group place an additional reporting requirement on the Scottish ministers, covering rights and duties in relation to employment, health and safety and consumer protection. The amendments therefore enhance scrutiny and provide further assurances to those who are rightly concerned with safeguarding EU-derived rights and protections.

I move amendment 47.

**Michael Russell:** I thank Neil Bibby for lodging amendment 47, which sensibly strikes the right balance between ensuring that we have powers that are sufficiently flexible for the task ahead of us and ensuring that, when we use the powers, we do not forget to be mindful of the important values that are set out in the amendment.

With the amendments in the group, the section 16 explanatory statement will become a powerful tool in ensuring that Parliament can give the appropriate amount of scrutiny to any instrument that is before it. The statements will cover matters such as equalities, employment rights, health and safety and consumer protections as well as setting out the purpose and effect of each instrument. Some of the matters that are covered are at least to a significant extent reserved. It is of course unlikely that any instruments that are laid by the Scottish ministers could have any effect on those matters. However, it is possible that devolved provision might have a peripheral effect on such matters, so it is right that the explanatory statement should explain the position if that is the case.

Given the specific focus of amendment 47 on those matters, it is appropriate that it makes clear that the statement applies only

“so far as it is within devolved competence ... for the instrument to have any such effect”.

That is the right way of ensuring that every instrument receives the scrutiny that it deserves.

My amendments 50 and 52 are consequential on Mr Bibby's amendment 47. They ensure that the bill treats the elements of the statement that are required by amendment 47 in the same way as the other elements of the statement that are set out in section 16.

I therefore recommend that members vote for all three amendments in the group: 47, 50 and 52.

**Patrick Harvie:** Much like the earlier discussion on the different approaches that political parties took in relation to the environmental arguments at another point in the bill, again on the issue of

explanatory statements, we had two proposals at stage 2 that very much tried to achieve the same essential objective. I lodged an amendment that was modelled on one that was discussed in the UK Parliament in relation to the European Union (Withdrawal) Bill. Neil Bibby lodged an amendment that had greater specificity in the way that it was framed. There has been some discussion on the issue, and I know that Neil Bibby and colleagues in his office have worked hard alongside the Government. I am pleased that there is agreement on how the bill should deal with that wider set of social rights. I am glad that the minister will accept amendment 47 and I will certainly vote for it.

I would like to make one other point, which is on the wider agenda of rights, not all of which are covered in the bill. The minister knows that I considered lodging an amendment relating to the UN Convention on the Rights of Persons with Disabilities, but that I concluded that there was no appropriate place for it to fit in the bill. As the minister knows, that convention interacts with EU law, and the UK Government has signed it but has not implemented it domestically. I ask the minister to say whether the Scottish Government continues to endorse that convention. Will he write to the Parliament at some point when the question has been considered to say whether legislative implementation in domestic law will be necessary in relation to that convention?

**Michael Russell:** I am happy to give the member that assurance. The matter fits well into the process that I was challenged about by Neil Findlay and Johann Lamont, and it should be considered as part of that process as one of the things to which we need to have special regard as we move forward.

**Patrick Harvie:** I am very grateful for that. I will support Neil Bibby's amendment.

*Amendment 47 agreed to.*

**The Presiding Officer:** We turn to group 11. Amendment 48, in the name of Donald Cameron, is grouped with amendments 51 and 53.

**Donald Cameron:** I hope that I can be very brief. The purpose of amendment 48 is to ensure that when instruments are laid during a period of recess, the Scottish ministers will be held accountable for that and must explain why it has occurred. During stage 2, the minister stated that

"we need to recognise that it is almost inevitable that we will need to lay some of our instruments in recess"—  
[*Official Report, Finance and Constitution Committee*, 14 March 2018; c 85.]

and that it would be appropriate for the bill to set out more about what should happen in that instance. As a result of that, I did not move an amendment that made provision for recess, and

the Scottish Government has suggested a reworded version that is in amendment 48 in my name. I welcome that constructive engagement.

Amendments 51 and 53 are technical amendments.

I move amendment 48.

**James Kelly:** Amendments 48, 51 and 53 are all sensible and require the Government to provide an explanation when instruments have to be laid during recess. That is a reasonable precaution for this or any future Government. We will support all the amendments in the group.

**Michael Russell:** The amendments add a welcome safeguard to the bill. As I said at stage 2, in response to Donald Cameron's original amendments, regulations under the continuity bill will be made against a very hard deadline that is out of our control and a backdrop of uncertainty. In those circumstances, it is appropriate for the bill to set out more about what should happen when regulations under its main powers need to be laid during recess, and the amendments achieve that. I thank Mr Cameron for working with us to lodge them. I recommend that the chamber votes for amendments 48, 51 and 53.

*Amendment 48 agreed to.*

*Amendment 49 moved—[Tavish Scott].*

**The Presiding Officer:** The question is, that amendment 49 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Balfour, Jeremy (Lothian) (Con)  
Ballantyne, Michelle (South Scotland) (Con)  
Beamish, Claudia (South Scotland) (Lab)  
Bibby, Neil (West Scotland) (Lab)  
Bowman, Bill (North East Scotland) (Con)  
Briggs, Miles (Lothian) (Con)  
Burnett, Alexander (Aberdeenshire West) (Con)  
Cameron, Donald (Highlands and Islands) (Con)  
Carlaw, Jackson (Eastwood) (Con)  
Carson, Finlay (Galloway and West Dumfries) (Con)  
Chapman, Peter (North East Scotland) (Con)  
Cole-Hamilton, Alex (Edinburgh Western) (LD)  
Corry, Maurice (West Scotland) (Con)  
Davidson, Ruth (Edinburgh Central) (Con)  
Dugdale, Kezia (Lothian) (Lab)  
Fee, Mary (West Scotland) (Lab)  
Findlay, Neil (Lothian) (Lab)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Golden, Maurice (West Scotland) (Con)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)  
Greene, Jamie (West Scotland) (Con)  
Griffin, Mark (Central Scotland) (Lab)  
Halcro Johnston, Jamie (Highlands and Islands) (Con)  
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)

Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 68, Abstentions 0.

*Amendment 49 disagreed to.*

*Amendment 50 moved—[Michael Russell]—and agreed to.*

*Amendment 51 moved—[Donald Cameron]—and agreed to.*

*Amendment 52 moved—[Michael Russell]—and agreed to.*

*Amendment 53 moved—[Donald Cameron]—and agreed to.*

*Amendment 54 moved—[Neil Findlay].*

17:45

**The Presiding Officer:** The question is, that amendment 54 be agreed to. Are we agreed?

**Members:** No.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)



Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)

Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 69, Abstentions 0.

*Amendment 54 disagreed to.*

#### **Section 19—Power to provide for fees and charges**

*Amendment 9 not moved.*

#### **Section 21—Scrutiny of regulations under sections 19 and 20**

*Amendment 55 moved—[Michael Russell]—and agreed to.*

## Section 22—Relationship to other powers

*Amendment 10 not moved.*

### After section 26

*Amendment 56 moved—[Mark Ruskell]—and agreed to.*

## Section 27—Interpretation: general

*Amendment 57 moved—[Michael Russell]—and agreed to.*

## Section 28—Meaning of “exit day”

**The Presiding Officer:** We turn to group 12. Amendment 58, in the name of Ivan McKee, is the only amendment in the group.

**Ivan McKee (Glasgow Provan) (SNP):** The purpose of amendment 58 is to provide more clarity on the meaning of “exit day”. It is concerned with how the bill works at the point at which the UK leaves the EU. The issue was discussed at stage 2, when concern was raised that the possibility existed that Scottish ministers could somehow set a different date for exit in the continuity bill than that which would apply in the UK Government’s European Union (Withdrawal) Bill. That was never the intention, but a mechanism must be put in place to ensure that if the date set in the UK bill were to change, the date in the continuity bill would reflect that change.

The Finance and Constitution Committee agreed to Neil Findlay’s stage 2 amendment to the definition of “exit day”. That replaced Scottish ministers’ ability to set exit day in regulations with a definition in the bill, namely

“the day that the United Kingdom leaves the EU.”

I am grateful to the minister for working with me on amendment 58, which gives more detail about what that means. It links the definition in the bill to the point when EU treaties stop applying to the UK

“as a consequence of UK withdrawal”

from the EU. That will ensure that the bill’s legal effect is tied to the legal process by which Brexit will take place. It will remove nothing from Neil Findlay’s previously agreed amendment, but will augment and expand on it. It will ensure that, however the UK leaves the EU, whatever is provided for in the withdrawal agreement will be reflected in the continuity bill. I urge members to support my amendment.

I move amendment 58.

**Adam Tomkins:** When the continuity bill was introduced, section 28 provided:

“‘exit day’ means such day as the Scottish Ministers may by regulations appoint.”

Ministers then explained that they did not really mean that, because they did not want to appoint a day for exit day. An amendment was agreed to at stage 2, so that section 28(1) now reads:

“‘exit day’ means the day that the United Kingdom leaves the EU.”

That is entirely appropriate, that is how it should be and nothing more needs to be said.

Contrary to what Mr McKee has just said in defence of amendment 58, his amendment would complicate the matter unnecessarily; it would make the matter less clear and not more clear. All that needs to be said is what is currently said in section 28(1):

“‘exit day’ means the day that the United Kingdom leaves the EU.”

Therefore, amendment 58 should be strongly resisted.

**James Kelly:** I rise to oppose amendment 58 in the name of Ivan McKee. There were concerns at stage 1 about how the drafting of the definition of “exit day” left its interpretation in the hands of Scottish ministers. The issue was addressed at stage 2 following an amendment from Neil Findlay, which made it clear that exit day is when the UK leaves the EU. That is a clear definition.

Ivan McKee’s amendment refers to the Treaty on European Union and the Treaty on the Functioning of the European Union, which adds confusion and potential conflict. The clear definition that we have is legally watertight and should remain. Therefore, I oppose amendment 58.

**Michael Russell:** I will deal with Mr Tomkins’s point first. I cannot imagine why this amendment should be strongly resisted, and I am not sure that anybody, let alone Scottish fishermen, would believe a word that the Tories say about exit day these days.

I am surprised by the Labour Party’s position, because we accepted and were very helpful with Neil Findlay’s stage 2 amendment. As I said during stage 2, I thought that we might need to make some small technical changes to it. Amendment 58 reinforces Neil Findlay’s amendment and makes the changes that are necessary so that we fully understand the issues to do with EU treaties. That is entirely consistent with making it as clear as possible that we are not setting exit day—exit day is set elsewhere.

We do not want exit day. I would rather not have exit day, but if we are going to have it, it has to be tied down very clearly. It is tied down in both Neil Findlay’s amendment and amendment 58. Therefore, I urge the chamber to support amendment 58.

**The Presiding Officer:** The question is, that amendment 58 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)

Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)

**Against**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 68, Against 59, Abstentions 0.

*Amendment 58 agreed to.*

### **Section 31—Scrutiny of regulations in urgent cases**

*Amendments 11 and 12 not moved.*

**The Presiding Officer:** We move to group 13. Amendment 16, in the name of Murdo Fraser, is grouped with amendment 17.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Amendments 16 and 17 deal with the question of regulations being introduced by Scottish ministers in what are described in the bill as “urgent cases”. As drafted, section 31 provides that such regulations shall

“cease to have effect at the end of the period of 28 days ... unless ... the regulations are approved by resolution of the Scottish Parliament.”

Therefore, section 31 grants powers to ministers to make emergency powers that will have immediate effect but will be required to be approved by Parliament. If that is not done, the regulations would cease to have effect.

My amendments 16 and 17 do not object in principle to ministers having that power, but I feel that the period of 28 days to get parliamentary approval is simply too long. At issue is proper parliamentary scrutiny of ministerial powers.

At stage 2, I moved amendments that suggested that the period of 28 days in section 31(4) be reduced to 14 days. That would still have given Scottish ministers the power to make regulations in urgent cases, but it would require that they be approved by Parliament within 14 days, which struck me as a reasonable period that strikes a balance between the need for parliamentary scrutiny and the freedom of ministers to act in urgent cases.

At stage 2, the minister said that he wanted to consider the matter further, so I agreed not to press my amendment. His officials subsequently came back with a suggestion that the Government would be prepared to reduce the 28-day period to 21 days. That seems to be a reasonable compromise, so as a seeker of consensus at all times, I have lodged amendment 16, which seeks to reduce to 21 days the period that is set out in section 31(4). A consequential amendment—amendment 17—will bring section 31(5) into line with that proposal.

I move amendment 16.

**James Kelly:** I support amendments 16 and 17, which relate to scrutiny in urgent cases. Murdo Fraser’s reasonable point is that a 28-day period is too long, bearing in mind that we are talking about

urgent cases, so a 21-day period seems more reasonable. The Government also has the option of seeking parliamentary approval prior to that time. I urge Parliament to support both amendments.

**Michael Russell:** Members in the chamber—and those outwith it who might still be observing—might regard this outbreak of consensus as unique. Indeed, it might almost be a step too far that Murdo Fraser, James Kelly and I agree on an amendment, but so be it.

I thank Murdo Fraser for allowing me the time to reflect on the time period in the provision. As I indicated at stage 2, I saw no great harm in his amendments. Indeed, it was never intended that the time period had to be 28 days—less time could be taken—but a 21-day period strikes, I think, the correct balance. It allows a reasonable period of time; it allows Scottish ministers to make instruments of reasonable certainty and it gives Parliament the opportunity to scrutinise such instruments and to schedule a vote, if necessary. I was not convinced that 14 days could have achieved that balance, so I am grateful to Murdo Fraser for promoting this proposal. I think that a period of 21 days is about right, and I recommend that Parliament agree to Murdo Fraser’s amendments 16 and 17—which are words that I never thought I would hear myself say.

*Amendment 16 agreed to.*

*Amendment 17 moved—[Murdo Fraser]—and agreed to.*

### **Section 31A—Suspension of effect of section 31**

*Amendment 59 moved—[Michael Russell]—and agreed to.*

### **Section 32—Ancillary provision**

**The Presiding Officer:** We turn to group 14. Amendment 60, in the name of the minister, is the only amendment in the group.

**Michael Russell:** Amendment 60 is a short and practical amendment that I hope can be supported across the chamber.

I have often pointed to section 37, and the ability to repeal the legislation, as evidence of the Government’s good faith in seeking agreement over the withdrawal bill. I have also said that, if that does not prove to be possible, the second-best option involves both Governments working together to make sure that the continuity bill and the withdrawal bill can work together in Scotland in as complementary a way as possible; indeed, the bills have been designed in that way. I have explained on a number of occasions that, subject to a limited number of policy differences, the bill

has been carefully drafted to mirror equivalent provisions in the withdrawal bill. Amendment 60 is further evidence of our good faith in seeking that outcome.

Amendment 60 will allow the power with regard to ancillary provision in section 32

“to make provision in consequence of, or in connection with”

the withdrawal bill, when it is passed, and any other legislation that is also aimed at preparing our laws for the consequences of EU withdrawal. At each stage of the bill process, members have raised concerns about what would happen if the withdrawal bill were to be amended in a relevant way after the continuity bill passed through the Scottish Parliament. I remember Tavish Scott raising the issue at stage 1 and Murdo Fraser asking probing questions about it during committee scrutiny. The issue was also highlighted by the Delegated Powers and Law Reform Committee. Amendment 60 responds to those genuine concerns. Agreement to the amendment would mean that, in such a situation, we could come to Parliament with regulations making provisions that would ensure that, despite such amendments, the two bills would still be able to work together.

We have no information to suggest that that might happen, but amendment 60 would mean that if the operation of the two bills together, in some unanticipated way, proved to be awkward or required some fine tuning in order for it to work best, we would be able to come to Parliament with a proposal, in regulations, to address that.

I must stress that it remains the case that any exercise of the powers would be required to be consistent with the policy that has already been given effect in the bill, as the power must be exercised for the purpose of giving full effect to the bill.

At stage 2, Liam Kerr amended the ancillary provisions power so that, unusually, it requires ministers to be satisfied that the use of the power is “necessary” before making provision under it. We will not seek to reverse that at stage 3, and the same limitation will apply to the power when it is used for the new purpose. Ministers will have to be satisfied, and the test will have to be applied, that making provision of the sort that is envisaged by amendment 60 is necessary before they can put anything to Parliament.

Amendment 60 is sensible and modest and is aimed squarely at the serious practical difficulties that Parliament might face under a possible scenario over the next 18 months in trying to prepare Scotland’s devolved laws for the consequences of Brexit.

I move amendment 60.

18:00

**James Kelly:** In evidence to the Finance and Constitution Committee at stage 1, Michael Clancy of the Law Society of Scotland made the point that it is important that continuity legislation that is passed in the Scottish Parliament needs to be consistent with the appropriate clauses of the European Union (Withdrawal) Bill at Westminster. That was a relevant point so, from that point of view, I am sympathetic to the minister’s amendment 60.

However, I am also aware that the Delegated Powers and Law Reform Committee has expressed concerns about the overarching reach of amendment 60 in granting too much power, and the potential for the Government to use too much power. Although I am convinced by the case that the minister has made, I ask for reassurance that the powers will not be overreached.

**Michael Russell:** I am happy to give that assurance. I have read what the convener of the Delegated Powers and Law Reform Committee has said and drawn attention to. As I said, amendment 60 was lodged directly in response to concern that was raised by members and by the Law Society of Scotland—I take that point from James Kelly. They made good points. Brexit will be complex, and we have always wanted to go with a single statute, because we recognise that operating two acts has potential problems.

However, if the two pieces of legislation have to be operated together, they need to operate together well. In our view, amendment 60 is limited in the same way as the other ancillary powers are—perhaps more so—but I am happy to give James Kelly the assurance that he seeks. It is the very limited right to address the concerns that members and the Law Society of Scotland have raised that is being sought in the ancillary provision.

**The Presiding Officer:** I take it that you are pressing amendment 60.

**Michael Russell:** Yes.

*Amendment 60 agreed to.*

### Section 36—Commencement

*Amendment 61 moved—[Tavish Scott].*

**The Presiding Officer:** The question is, that amendment 61 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Balfour, Jeremy (Lothian) (Con)  
Ballantyne, Michelle (South Scotland) (Con)

Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 65, Against 63, Abstentions 0.

*Amendment 61 agreed to.*

#### Section 36A—Review of this Act

**The Presiding Officer:** Amendment 62, in the name of Jamie Greene, has been debated. Do you want to move or not move the amendment?

**Jamie Greene:** For aforementioned reasons, I will not move amendment 62.

*Amendment 62 moved—[Michael Russell].*

**The Presiding Officer:** The question is, that amendment 62 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rumbles, Mike (North East Scotland) (LD)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)

Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 90, Against 36, Abstentions 0.

*Amendment 62 agreed to.*

#### After section 36A

**The Presiding Officer:** We turn to group 15, which is our final group. Amendment 63, in the name of Anas Sarwar, is the only amendment in the group.

**Anas Sarwar (Glasgow) (Lab):** As this is the final group, I will hold the chamber for as long as I like.

**Members:** No!

**Anas Sarwar:** I am used to not being popular. [*Laughter.*]

Amendment 63 seeks to put a duty on the Government to conduct an independent evaluation of the effect of Brexit on health and social care. It replicates an amendment that Joanna Cherry MP tabled at Westminster, which had the support of more than 60 organisations in Scotland, including Camphill Scotland, the Health and Social Care Alliance Scotland, Genetic Alliance, Inclusion Scotland, Scottish Care and the Scottish Council for Voluntary Organisations. I will not list all 60 organisations; the ones that I have mentioned were the main sponsors of the amendment.

Amendment 63 represents recognition that Brexit will impact on funding of our public services and on their workforces. We should not forget that we were promised £350 million a week extra for our national health service if we voted for Brexit. The reality is that Brexit will impact on our economy, our tax receipts and the funding that is available to our public services.

I record my thanks to all the EU citizens who work in our health and social care systems. [*Applause.*] The sad reality is that we face workforce pressures now, but Brexit will exacerbate those pressures and put more pressure on our already overworked and undervalued staff.

Amendment 63 seeks to make provision for an assessment to be carried out of the effect of Brexit on health and social care, and for a report on it to be shared with Parliament and the public. I hope that members will support it.

I move amendment 63.

**Michael Russell:** Amendment 63 is an appropriate amendment with which to end our stage 3 consideration of amendments. As Anas Sarwar rightly indicated, Brexit will touch people's

lives very directly. It is interesting and concerning to reflect on the fact that the issues that have been raised today and over the past three weeks have included not only the legality or otherwise of Brexit, and the legality or otherwise of the continuity bill and our scrutiny of it. We have also talked about—sometimes in detail—the environment, animal sentience, employment rights and human rights. Today, Patrick Harvie raised issues of employment and disability. Now, we are touching on healthcare and workforce rights. If we were again to go through the whole process of Brexit, we would realise again and again that it is profoundly disturbing and profoundly damaging. In Scotland, we will have to take exceptional actions to defend ourselves against something for which we did not vote.

I believe that there are ways forward—for example through membership of the single market and the customs union, but we can have that debate elsewhere. Amendment 63 illustrates the real difficulties that we face—I stress this point—through no cause of our own. Scotland voted against Brexit, and we should always remember that.

I thank Anas Sarwar for lodging amendment 63. I thank him for what it says and for the wider issue that it raises. The Scottish Government is concerned about the impact of Brexit on the provision of health and social care in this country, and it supports the conducting of an independent assessment of the effects in that area and elsewhere. It is concerned about the effect on the workforce and the services that individuals will be able to access.

I wish, however, that Mr Sarwar had lodged the amendment at stage 2. I know that it closely mirrors an amendment that was lodged at Westminster by my good friend and colleague Joanna Cherry. I am sure that her wording was absolutely perfect for Westminster circumstances, but we might have polished it up a little for Scottish Parliament circumstances and worked with Mr Sarwar to improve it, as we have done with other members' amendments. I am not convinced, for example, that the period of one year from royal assent is the right timescale in which the evaluation must be published. In many cases, the regulations that will require to be made under the bill will not have been made by then, and none is likely to have been brought into force within that period—although those are, perhaps, minor points.

The Government will support amendment 63. It is vital that Parliament, the Government and the public have the best-quality information on the consequences of withdrawal from the EU. The SNP Government has published information on those consequences—most recently in the latest



version of “Scotland’s Place in Europe”. It is the Tory UK Government that has tried to keep the consequences secret by refusing to publish its assessments.

I support amendment 63, and I hope that members do, too.

**The Presiding Officer:** I invite Anas Sarwar to wind up and to press or withdraw amendment 63.

**Anas Sarwar:** I press amendment 63.

*Amendment 63 agreed to.*

### **Schedule 2—Consequential, transitional, transitory and saving provision**

**The Presiding Officer:** Does Mike Rumbles wish to move amendment 13?

**Mike Rumbles:** For the last time this afternoon, Presiding Officer, I will not move the amendment.

*Amendment 13 not moved.*

### **Schedule 3—Index of defined expressions**

*Amendment 64 moved—[Michael Russell]—and agreed to.*

**The Presiding Officer:** That ends consideration of amendments.

As members will be aware, at this point in the proceedings, I am required under standing orders to decide whether any provision in the bill relates to a protected subject matter—that is, whether it will modify the electoral system and franchise for Scottish parliamentary elections. In my view, no provision in the bill will do that. Therefore, the bill does not require a super-majority at stage 3.

I am minded to suspend Parliament for a 10-minute comfort break. We will resume at 20 past 6.

18:10

*Meeting suspended.*

18:22

*On resuming—*

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

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on motion S5M-11136, in the name of Michael Russell, on the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill at stage 3.

I call the Deputy First Minister to signify Crown consent to the bill.

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, has consented to place her prerogative and interests, in so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

**The Deputy Presiding Officer:** I call Michael Russell to speak to and move the motion.

18:23

**The Minister for UK Negotiations on Scotland’s Place in Europe (Michael Russell):** On 27 February, which seems like an impossibly long time ago now, I came to the chamber to set out the Government’s reasons for introducing the bill. In the three weeks and one day since then, the bill has been scrutinised by five committees of the Parliament. More than 230 amendments were considered at stage 2 during not one but two unprecedented evening committee sessions. The amount of time that was spent at stage 2 was longer than the time spent on the Social Security (Scotland) Bill, for example. We have just considered a further 65 amendments at stage 3. We are now here—I am sorry—for a further evening session to pass the bill on the timetable that was set out by the Parliament on 1 March.

In our pre-stage 2 debate—another procedural innovation—I said that the Parliament had risen to the occasion, and I repeat that sentiment this evening. I put on record the Government’s appreciation of the efforts of many people who have brought the bill to a successful conclusion.

Let me start with the Parliament’s staff—those in the chamber office, and the clerks to various committees who organised evidence sessions at short notice, and who received and processed the amendments at stages 2 and 3. The team at the Finance and Constitution Committee did an

outstanding job in guiding the committee and other members through the complexities of the stage 2 amendments. We all owe a particular debt to the convener, my good friend Bruce Crawford, for his absolutely masterful chairing.

I record my appreciation of those involved in the logistics: the security staff; catering; the official report; television and audio teams; and other facilities staff who are necessary to make the chamber work. All of them rose magnificently to the occasion, including the management of the Parliament, under the clerk, Sir Paul Grice.

Finally, I thank other members for their contributions. We are all aware of the unusual features of the legislation and the procedure. Members have ensured that both were tested to ensure that they were justified, sometimes using a great deal of imagination or what one might even call ingenuity. The bill that has emerged is improved as a result of all our efforts.

I remind members of why the bill is necessary. Nine months ago, the United Kingdom Government introduced a bill that would directly affect the competence of the Parliament and the Scottish Government. In effect, that bill sought to turn back the clock to 1973, and to allow the UK Government—and it alone—to redesign devolution as if the UK had never been in the European Union or the common market or the European Community. I will leave aside the difficulty of travelling in time. As the late Stephen Hawking observed:

“If time travel is possible, where are the tourists from the future?”

However, it was clear from the outset that that provision was never going to get the agreement of any devolved Administration worth its salt. To quote the unanimous view of the Finance and Constitution Committee, it was obviously

“incompatible with the devolution settlement in Scotland”.

That was also true in Wales, where our colleagues in the Welsh Government and Welsh Assembly took a similarly robust view of the UK Government’s proposals. Indeed, one of the features of this process has been the close working of the Welsh and Scottish Governments—I pay particular tribute to my colleague Mark Drakeford—and members of their Parliament and Assembly, and indeed members and peers at Westminster from across political parties. All have sought to address the concerns about devolution that have been raised by the UK bill.

However, despite the almost unanimous calls for change to respect the principles of devolution, the UK Government has yet to agree amendments that could get the consent of this Parliament or the Welsh Assembly. Hence our alternatives—the continuity bills. Our bill will ensure that Scots law

continues to operate effectively following withdrawal should the Parliament be unable to consent to many provisions of the UK’s bill.

We now invite Parliament to pass the bill this evening, in parallel with our colleagues in the Welsh Assembly, whose bill is completing its parliamentary stages as I speak. It has, indeed, just gone into stage 4, although I am not proposing that we have a stage 4. In fact, I understand that the Welsh bill has been passed in the last few minutes.

In asking Parliament to support the bill, I emphasise what the Government has made clear from the outset: our aim remains to reach agreement to satisfactory changes to the UK bill. That would be the best path because it is desirable to have the relevant powers all in the same place. Also, and perhaps more important, reaching agreement would send an important signal. It would show that devolution will be properly respected. It would acknowledge the constitution under which we live. It would show that the different Governments of the UK can sit down and negotiate to reach a mutually acceptable outcome, and we have been trying to do so. It would show that this way of doing business, rather than imposition, should be the norm no matter the political composition of the Governments or their constitutional preferences.

I remain hopeful that an agreement can be reached. The First Minister, the Deputy First Minister and I have all made clear that that is our firm objective and we will do our very best to achieve it. However, passing the bill will be an important sign that Parliament is resolute in defending devolution and serious in its consideration of the issues at stake, and it will give us an important alternative in the negotiations that remain ahead of us.

**Adam Tomkins (Glasgow) (Con):** As the minister knows, there are grave doubts about the legislative competence of the bill. In order to clarify and clear up those doubts authoritatively—that can happen only in the UK Supreme Court—will he undertake that the Lord Advocate will refer the provisions of the bill to the UK Supreme Court for a definitive ruling on its legislative competence?

**Michael Russell:** The Scottish Government, of which the Lord Advocate is a member, has no grave doubts. It has no doubt that the bill is competent. That is absolutely clear to us. There is no need to challenge the bill in the Supreme Court. The right way ahead for any part of these islands is to accept the democratic will of the chamber, if the bill is passed this evening, and then to work closely together, Government to Government, either to ensure that we have an agreement between Wales, Scotland, the UK and possibly Northern Ireland, should it have a working

Assembly, or to allow the bills to operate in parallel and for the UK Government to withdraw those sections of its bill that do not get legislative consent. That is the clear, democratic way forward. I urge that clear, democratic way forward on all the Governments of these islands.

I move,

That the Parliament agrees that the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill be passed.

18:29

**Adam Tomkins (Glasgow) (Con):** I open on a point of consensus—like my friend and colleague Murdo Fraser, I am always looking for consensus. On behalf of the Scottish Conservatives, I echo the remarks that the minister correctly made in thanking the Parliament and its staff for rising to the significant challenge of legislating in the absurdly restricted amount of time that the Government made available for the bill.

Parliament rose to the challenge successfully at stage 2, but perhaps did so a little less successfully at stage 3. This afternoon we heard about a number of disturbing incidents. We have had amendments that appeared to have been agreed with the Government but which turned out not to do what was promised. There have been very serious allegations of Government ministers “strong-arming” members of a key scrutiny committee in this Parliament. Those allegations will, no doubt, be for others to investigate, but whatever the full picture, those and other related incidents serve only to reinforce the core point that we made about this bill when it was introduced: it is bad law, which we have been asked to make badly.

The bill is unwelcome and unnecessary. We have resisted it at every stage of its process and we will vote against it tonight. The first reason for that is that there are grave doubts about its legislative competence. Mr Russell’s response to my question a few minutes ago was extraordinary. Competence is not a question of democracy; it is a question of legality, and the only place that can rule authoritatively on the legality of this legislation is the United Kingdom Supreme Court.

**John Swinney:** Will the member give way?

**Adam Tomkins:** The Lord Advocate should have the courage of his legal convictions and he should use his powers under the Scotland Act 1998 to refer the provisions of the bill to the Supreme Court. [*Interruption.*]

**The Deputy Presiding Officer:** Please sit down, Mr Swinney.

**Adam Tomkins:** First, there is the point about its compatibility with European law, which is the

point that the Presiding Officer wrote about in his opinion on legislative competence. In addition, section 33 of the bill modifies protected statutes contrary to schedule 4 to the Scotland Act 1998. That is unlawful.

The bill trespasses on reserved matters contrary to schedule 5 to the Scotland Act 1998, such as in section 17 and in the amendment in the name of Mr McKee that was agreed to this afternoon; that is just one of the reasons why that amendment should have been strongly resisted.

The Scottish Government likes to talk about respecting the devolution settlement, but wilfully enacting law in this Parliament that is beyond the limits of our legislative competence does not respect the devolution settlement. That is not respecting the rule of law; it is not respecting the British constitution; and it is not respecting the devolution settlement.

**John Swinney:** Does Mr Tomkins not accept that for the Scottish Government to present the bill to Parliament, we would have had to seek the authority of the Lord Advocate—Scotland’s principal law officer—before we could introduce it, in order to certify its legislative competence? The Government sought and secured that from the Lord Advocate.

**Adam Tomkins:** Of course I accept that. That is a matter of fact, as Mr Swinney well knows, but there is more than one legal opinion about this. There is also the legal opinion of the Presiding Officer. There are also the points that lawyers who have scrutinised the bill during its rushed, reckless passage through the Parliament have identified, including those that I have just mentioned. The only place where the matter can be authoritatively determined is the United Kingdom Supreme Court. Any Lord Advocate who was really confident about his opinion that these provisions are within competence would have no hesitation but to refer them to the Supreme Court for a ruling.

The bill is known informally as the continuity bill, but its real purpose, which has been exposed time and again during the rushed proceedings, is not continuity; its real purpose is to sow the seeds of division within the United Kingdom. Its real purpose is to create legal chaos and legal confusion. That was revealed even in the Government’s policy memorandum accompanying the bill, paragraph 20 of which states that the bill will “add to the complexity” of Brexit. In the same paragraph, it says that the bill will “present serious logistical challenges”. That is what the Scottish National Party has been about in these proceedings and that is why we have resisted the bill every step of the way.

In addition, there is the extraordinary power grab in section 13—a provision that will enable

Scottish ministers to act in all manner of ways without adequate parliamentary scrutiny, notwithstanding the valiant attempts of members across the chamber to improve an odious provision. It will make Scotland a rule-taker and bound by a European Union of which we will cease to be a part. That cannot be consistent with democracy, or with the rights and interests of this Parliament.

What we should have been doing, instead of debating this unnecessary, unwanted and unwelcome legislation, is thinking hard about how we will negotiate, navigate and enforce the common frameworks that the minister and I—and everybody in this Parliament—agree should be agreed and not imposed, as we move into the post-Brexit scenario.

What we should have been doing, instead of debating this reckless legislation in this reckless way, is figuring out how we are going to make the best of the post-Brexit landscape, and seizing the opportunities that Brexit presents us with. How are we going to design an agricultural support mechanism that suits the interests of farmers in Scotland? What are we going to do to take forward environmental protection post-Brexit? At UK level, what are we going to do to ensure that we have appropriate industrial policy with appropriate state aids and public procurement rules?

For the past 46 years we have not been able to debate any of those questions anywhere in the United Kingdom, because that has been done for us by the European Union. Brexit means that we take back control of those issues. [*Interruption.*] Those are the issues that we should have been debating, instead of this reckless and unnecessary legislation.

**The Deputy Presiding Officer:** Thank you. [*Interruption.*] Excuse me. It is very difficult to hear if members yell.

**John Swinney:** It was not worth listening to.

**The Deputy Presiding Officer:** Mr Swinney! No one is above the chair in this chamber.

18:37

**Neil Findlay (Lothian) (Lab):** It is always depressing to follow Boris Johnson, Presiding Officer.

This bill has gone through Parliament at breakneck speed. From the outset, if we are honest, many of us have not been comfortable with how it has been handled and rushed. We do not think, despite the minister's claims to the contrary, that the bill has had the scrutiny that it deserves from members or, indeed, the wider community, who will be affected by it.

However, we are where we are. While expressing those concerns and the caveats that we have raised from the outset of the process, we will give cautious support to the bill at decision time. I echo the minister's words about the commitment given by the staff of the Parliament. They always go beyond the call of duty. I particularly single out Madeline Grieve of our Labour staff, who has done a power of work for us on this.

This was, and still is, an avoidable situation. If we cast our minds back to December, we were assured by David Mundell, the Secretary of State for Scotland, that the UK Government would make changes to its bill in the House of Commons in order to address concerns about the impact of the European Union (Withdrawal) Bill on devolution. He said:

"We have been very, very clear. The committee stage of this Bill is about listening, it's about adapting to issues that have been brought forward ... We have listened ... and we will bring amendments forward to clause 11".

He also said:

"It's going to be amended because Scottish Conservatives have come forward with practical amendments to the Bill."

Adam Tomkins himself said that the bill needed to be amended to comply with the devolution settlement. The Finance and Constitution Committee of this Parliament unanimously called for the EUWB to be amended in the House of Commons to resolve those outstanding issues, but no amendment was tabled. On 16 January, the Labour Party tabled amendments in the House of Commons that would have protected the devolution settlement and established a dispute resolution procedure. However, every Scottish Tory MP traipsed through the lobbies and reneged on their commitments. It looks as though it is not only the Scottish fishermen who have been deceived by the Tory party.

Today, the issue still lies in the House of Lords, and while I am frustrated that it lies there, in the hands of the unelected, I am hopeful that we will see some common sense prevail, the devolution issues resolved and a dispute resolution process put in place, because we want this to work. We want devolution to work. We want everyone involved to make the retention of jobs and our trading relationships across Europe a top priority. We want to build prosperity that we can share more equally. We believe that a customs union with the EU allows us to do that, but, of course, we also see areas in which common frameworks should be developed with our neighbours on this island.

Yesterday, I and my UK Parliament colleague Keir Starmer met the Scotch Whisky Association. We agree with it that there are areas where cross-

Europe and UK-wide framework agreements make business and regulatory sense. One example is labelling. The SWA has worked hard for years to ensure that consistent EU rules on production and labelling are in place and enforced. That has helped the sector to grow and succeed as a major exporter to many EU and global markets. It is in the interest of businesses, their employees, trade unions and communities and of the respective Governments to take common approaches that are developed in a respectful and collaborative manner. Let us end the frustrating stand-off and get on with it.

Throughout this process, Labour has sought to play a positive role. However, at times, we have had to drag information from the minister and the Government, and at other times, we have had to act to rein in the minister's ambition to grab powers from this Parliament and take them into ministerial offices.

Members across the chamber have tried their level best to make this messy bill better but we should not easily forget that it is the Tories who have got us into this mess, and time is running out for them to get us out of it.

18:41

**Patrick Harvie (Glasgow) (Green):** I am unclear on the timing of speeches, Presiding Officer.

**The Deputy Presiding Officer:** You have four minutes.

**Neil Findlay:** You have one minute.

**Patrick Harvie:** I will have to disappoint Mr Findlay and go on for just a little more than a minute.

I think that, fundamentally, Parliament has done its job in this process—a process that we did not wish to face and one that is, inevitably, imperfect.

We should not be here at the stage 3 debate rehashing debates about competence or about whether the bill is an emergency bill. We have already agreed to the emergency procedure, and we have already agreed to the general principles. Parliament has decided that the bill should be considered. Frankly, if its competence is ultimately challenged, I want the Scottish Government to defend the bill robustly once we have passed it.

Instead of rehashing that debate, let us recognise the work that has been done since the introduction of the bill. Under extraordinary time pressures, we have maximised committee scrutiny as much as humanly possible. We have maximised the chamber debating time with innovations to the emergency procedure. We have shifted the balance in the bill, taking some power

that would have gone to Government and ensuring that it goes to Parliament instead, and we have made significant changes to the contents of the bill.

Both Mr Kelly and the minister are right that that could not have been done without the support of a great many people—the committee clerks, the legislation team and a great many others, including our own teams in our party groups. I know that, across the parties, our teams have worked hard not just to put forward our own propositions but to try to achieve consensus.

Indeed, some of the most important changes that we have achieved in the bill have been done by cross-party agreement. That is the way that this Parliament was supposed to work in the first place. We were never built to be a Parliament like the bear pit of the House of Commons, with two sides opposing each other, two swords' lengths apart. This Parliament was always supposed to be about trying to cultivate some cross-party agreement. We often fail on that, and our politics often falls back into tribal lines. However, on this occasion, we have managed, where possible, to achieve agreement with the Government on some significant issues of policy, and to push the Government beyond its comfort zone on a few points.

As a result, serious regulation-making powers in the bill have been restricted, both in timescale and in scope, and major improvements have been made in relation to environmental principles, social rights, scrutiny and challenge. Those not only improve the bill as introduced, but they clearly improve on the UK legislation that ultimately we would have been forced to accept—if not for the introduction of the continuity bill, we would have given the UK Government a pretext to impose the UK legislation on us without legislative consent.

Over the months and years to come, we will no doubt disagree on many issues. We will disagree when Conservatives such as Adam Tomkins, who voted remain because he knew the damage that the Brexit crisis will cause, chant "Take back control!" We will disagree with some Labour members of the Scottish Parliament, who promise a deal that will secure the exact same benefits of membership of the single market but who are not willing to commit to freedom of movement as one of those fundamentally important benefits of being in the single market. I will disagree with those in the Scottish National Party, for example, who have never supported international agreement on the control of fish stocks and who seek to achieve changes in that regard that I will not be able to support.

There will be a great deal on which we disagree, and—fundamentally—I will disagree with those who say that we should give up the ghost and give

up the principled position for which the clear majority of people in Scotland voted. We should respect how they voted. We should oppose Brexit. We will disagree on that, too.

However, I am delighted that there has been enough of a measure of agreement on changes that were necessary to the bill. It is a better bill that we will pass than the one that was introduced, and I will vote for it.

18:45

**Tavish Scott (Shetland Islands) (LD):** This Parliament is stronger for having people such as Adam Tomkins in it. He brings a wealth of experience and a hinterland—as people in other walks of life call it—that is important. But—there is a “but”; boy, is there a “but” after that speech—Adam Tomkins’s speech was one of the worst that I have ever heard in this Parliament, because at no time did he do the decent thing and say why we are here. Many of us have raised that issue, from the time when the minister had to introduce the bill.

Most of us would rather not be here having this debate at all. Most of us would rather not be leaving the EU. We hear people make great claims about how great it will be when we leave. My daughter is 26 years old. Her whole generation does not think that Brexit is right. It is not just my daughter; her first cousins, who live in the south-west of England, do not think that it is right. For that generation, in particular, this is a bad day, and it will be a bad day next March when we leave the European Union.

However, that is why we are here. We are here because the United Kingdom vote on Brexit happened and because the Governments across the UK have yet to reach agreement. I profoundly hope that the continuity bill will become redundant at some stage and that we will see no more of it.

However, when will agreement be reached on frameworks? I took heart from the First Minister’s language in London—I think last week—when she talked about consent not being unreasonably withheld. I hope that the UK Government moves towards that position. Much earlier today, Michael Russell mentioned the amendment in the House of Lords that Lord Mackay of Clashfern has tabled, which proposes mechanisms that involve a member of each Government in the United Kingdom. Lord Mackay is a serious person, who knows his way around the constitution—written or unwritten—of this country, and he is looking at ways in which the withdrawal bill can be made better. I wish that people in his party in London would take such proposals forward.

I make a couple of final points. First, the minister rightly made much of the people who have helped

all members to get to where we are today. He commented on the ingenuity of some amendments. I have to confess that the ingenuity of most amendments—certainly those in my name—was the result of the brilliance of the clerks of this Parliament in interpreting my unbelievably inexact language and translating it into something that, in some cases, and probably quite worryingly, will subsequently become law. I particularly thank the clerks on Bruce Crawford’s committee and those who work in our parliamentary offices, who did a heck of a job in no time at all, including Matthew Clark and my staff, who stayed up as late as everyone else did, working to make all this happen.

As other members said, stage 2 was intensely challenging. However, having been through many stage 2s in this Parliament, I can say that it was one of the better stage 2s that we have had. More members turned up—although some did not—and the minister took a lot of the arguments on section 13, which was the cause of so much concern in the early stages of the bill. He did that in a productive way, sometimes because he lost the vote—Michael Russell would be the first to accept that in the Parliament that we have—but on other occasions by coming back with amendments at a later stage. I think that members of all parties can take credit for the way in which the bill was amended.

Finally, whatever happens in the coming weeks on frameworks and in the coming months on other aspects of the UK Government’s negotiations with Brussels, this Parliament will have a huge workload after March 2019 and during the transition period over the subsequent months. I trust that we are all ready for that, because we will certainly need to be.

**The Deputy Presiding Officer:** We move to the open debate, with speeches of four minutes.

18:50

**Ivan McKee (Glasgow Provan) (SNP):** Normally, members state at the start of their remarks how pleased they are to speak in a debate. I must say that, today, for me, that is not the case. We do not want to be having this debate. We did not want Scotland and the UK to face the economic and social uncertainty and costs that Brexit will bring. We did not want to have to spend considerable time and resources in this place debating the UK’s and Scotland’s withdrawal from the EU, which is a distraction from our work in moving Scotland forward.

We would have preferred the UK Government not to have pressed forward with the European Union (Withdrawal) Bill without our amendments to it, which were necessary to protect the devolution

settlement. We would have preferred to have reached a negotiated solution with the UK Government on the form of common frameworks. We all agree that those frameworks are necessary, but they must be based on consent and not just consultation. I hope that there is scope to reach agreement on that in the coming days and weeks.

However, that is the situation that we find ourselves in, and we have to make the most of it. The continuity bill is required to put in place the necessary legislation to ensure that devolved matters are decided on in the Scottish Parliament. The bill will ensure legal continuity of the powers over devolved matters and will prevent their being exercised by Westminster. That is important on a number of levels. First, it supports the enshrining of the devolution settlement, which is the basis of all the work that we do in this place. The principle is that what is not reserved is devolved. The bill prevents the setting of a precedent of devolved powers being controlled from Westminster under the guise of Brexit or in any other way.

Secondly, it is important to recognise that the matters that we are debating and the law that we will pass today do not involve some dry legal argument about the constitution, but potentially have very real consequences for people across Scotland. The Health and Sport Committee has heard of the risks to our Scottish national health service of being dragged into a UK-wide trade deal in the post-Brexit world. There is a risk that the distinctive Scottish approach to delivering healthcare, which is different from the increasingly marketised service provision in England, will be compromised in that process. There is a risk that public health measures that we have taken or hope to take to place restrictions on harmful products such as alcohol, tobacco and the foods that are at the root of our obesity epidemic will be constrained to protect multinational commercial interests as part of trade deals. In that area and on many other issues that are critical to the people of Scotland, the bill is intended to provide some protection by resisting steps to move the power to legislate in those devolved areas to another place.

The way in which the bill has been progressed through its stages by the minister and his team deserves commendation. The sheer number of amendments and the length of debate at stages 2 and 3 make it clear that everyone has had their chance to make their case and that sufficient time has been made available to scrutinise the bill.

The bill is necessary to protect the powers of the Parliament. It is the backstop that provides some protection for us from the Brexit chaos that is consuming the UK Government. It was necessary to introduce the bill at this time to ensure that those safeguards are in place in sufficient time.

We should not lose sight of the bigger picture. By intent or by omission, the actions of the UK Government represent a significant risk to the devolution settlement. It is our duty and our responsibility as members of the Scottish Parliament to protect that settlement. I expect that, shortly, we will pass the bill by a significant majority. We will show that the Scottish Parliament, representing the Scottish people who elected us, is standing up for Scotland and making sure that their voice is heard. I urge members to vote for the bill.

18:53

**Murdo Fraser (Mid Scotland and Fife) (Con):**

The bill is not one that the Scottish Conservatives ever wanted to see. We made it clear from the start that we consider it to be unnecessary and beyond the powers of the Scottish Parliament. Nevertheless, we have engaged fully in the legislative process. At stage 2, my Conservative colleagues and I lodged a long list of carefully considered amendments that sought to improve the bill. Although the Finance and Constitution Committee rejected the majority of those amendments, I am pleased to say that, in a number of cases, our amendments were accepted.

We saw a similar pattern this afternoon, at stage 3, when we made serious attempts to improve the bill, although we remain very concerned about aspects of it. It is our view that the bill will simply be bad law, although it is better than it was when it was introduced.

Throughout the process, we have heard from the Scottish National Party Government that the devolution settlement must be respected, and we heard that again from the cabinet secretary at the start of the debate. However, that self-same SNP Government has ignored the opinion of the Presiding Officer of the Parliament that the bill is beyond the Parliament's powers.

We have also seen the SNP Government rush the bill through Parliament as emergency legislation, which has meant that, despite the best efforts of the Finance and Constitution Committee and, indeed, all the members here today, it has simply not been given the level of scrutiny that it deserves. Neither has there been the opportunity for external stakeholders to have their views heard. The bill has been treated as emergency legislation when there is no emergency—we are not due to leave the EU for another year.

**Patrick Harvie:** Will the member give way?

**Murdo Fraser:** I am sorry, but I have only four minutes.

**The Deputy Presiding Officer:** You can take the intervention if you wish. I can give you a little extra time.

**Murdo Fraser:** Well, if I have a moment, I will give way.

**Patrick Harvie:** I am grateful. Mr Fraser knows that he has successfully improved the bill, and I have supported some of his amendments. However, he says that the bill still fails to respect devolution. Does he acknowledge both that there is nothing in our rules that has been broken in this process or in the introduction of the bill and that the UK Government has still failed to come up with any changes to its legislation that are acceptable to this Parliament?

**The Deputy Presiding Officer:** You will get your time back, Mr Fraser—be patient.

**Murdo Fraser:** Thank you, Presiding Officer. I say to Mr Harvie that, although nothing in our rules might have been broken, the Presiding Officer has made a ruling on legality that the Scottish Government has ignored. It is not respecting the Scottish Parliament when it does that.

We have heard a lot from the Scottish Government on the subject of what it calls “power grabs”. However, let us be absolutely clear on one point: every single one of the powers that we are now talking about is one that the SNP wants to see retained in Brussels and not devolved at all. If the SNP had its way, we would be re-entering the EU and every single one of the powers that it claims is the subject of a power grab would be returned in its entirety to the EU. When SNP speakers complain about powers being retained at Westminster, they need to be honest with the Scottish people, because, in fact, they want every single one of those powers to be sent back to Brussels and not exercised here at Holyrood.

**Michael Russell:** Will the member give way?

**Murdo Fraser:** I am sorry; I just do not have time. The minister will have a chance to have his say later.

I should say that that includes powers over fishing, which the SNP wants to see retained in Brussels under the common fisheries policy.

We are quite clear about what we want to see. We believe in devolution. We believe in subsidiarity. We believe in powers being exercised at the lowest possible level. However, we accept that, for the UK domestic market to work, common frameworks need to be agreed. We need a situation in which, for example, Scottish farmers can sell their produce freely across the whole of the UK because we have common standards on food quality and labelling. That is why common frameworks are important, and it is why the immediate unrestricted devolution of all the

powers coming from Brussels simply does not make sense on any level. Even the SNP accepts, in principle, the need for common frameworks. The key difference between the Scottish Government’s view on that and the UK Government’s view is that the Scottish Government is now demanding a right of veto on the terms of those common frameworks—as they affect not just Scotland but Wales, Northern Ireland and England, too. It is no surprise that the UK Government finds that prospect difficult to accept.

Let me close by reflecting on why we are where we are. Ever since the Brexit referendum result, we have seen the SNP flailing around, trying to find a political message to drive up support for a second independence referendum. It thought that the outcome of the EU referendum, with Scotland voting a different way to the rest of the UK, would lead to a public clamour for independence—but that simply has not happened. There is no evidence whatsoever of any public sympathy for the SNP’s position. The default public view on Brexit—even from those who voted to remain in the EU—seems to be, “Let’s just get on with it.” The desperate shrieking about power grabs that we hear from SNP politicians and the introduction of this bill are all about one thing and one thing alone: stoking a constitutional grievance against the UK Government to promote a second independence referendum.

For that reason, every unionist politician in this chamber should stand together in rejecting it. I say to my colleagues in Labour and the Liberal Democrats that they should not be fooled by what they hear from the SNP. They should not vote with them in support of this wrecking bill. They should stand with us—with the unionist majority in Scotland and with those who are against a second independence referendum—and vote down this bad law.

**The Deputy Presiding Officer:** Thank you, Mr Fraser. I gave you more than your time back.

18:59

**Neil Bibby (West Scotland) (Lab):** I, too, thank all the parliamentary and committee staff as well as my own party group staff, including Madeleine Grieve, for all their support and hard work during the bill process.

The continuity bill’s passage through the Parliament over the past several weeks is entirely without precedent. Brexit is also entirely without precedent. Never before have we had to transpose EU law into Scots law in this way. Never before have we considered legislation of this kind—a failsafe to protect the devolution settlement—and in such a short space of time.



We are in uncharted territory. The bill is not normal and it is not perfect, but it is necessary. If no agreement can be reached with the Tory Government on its withdrawal bill, if the withdrawal bill cannot be successfully amended in the House of Lords and if the dispute over devolution and the authority of this Parliament cannot be resolved through agreement and consensus, we must be prepared to act. As members have said, we must be prepared to put forward an alternative. The continuity bill is necessary because it is our alternative, and I am prepared to support it at decision time.

It is no secret that I and many others have reservations about various aspects of the bill. We have made the case for transparency, restraint and enhanced parliamentary scrutiny consistently throughout the process. At every stage, we have been clear that the regulation-making powers that the bill confers on ministers must be tested. At every stage, we have sought to amend the bill and improve it.

The bill before us this evening is not the bill that was first introduced. It has evolved and has been refined. Today, we agreed to amendment 47, in my name, which will place new reporting requirements on ministers covering employment rights, health and safety and consumer protection. We agreed further amendments on environmental standards, and we have built in requirements for transparent reporting and additional scrutiny throughout. We have also agreed that the powers in section 13—easily the most controversial section in the bill—will be subject to the affirmative procedure, and we have recognised the role of the Parliament in making provisions corresponding to EU law following exit day. None of that makes the bill perfect, but it makes it better. It goes some way towards addressing the concerns that members have expressed about our concentrating too much power in the hands of ministers.

Even now, we may find that the provisions in the bill are not implemented and that this contingency legislation remains a contingency, when the intransigence of the Tory Government comes to an end, common sense prevails and an agreement on the withdrawal bill is reached, it is amended and the continuity bill becomes redundant. However, if the Tory Government will not amend its withdrawal bill to take account of the concerns that have been expressed by every one of the parties represented in the Scottish Parliament, we will have no option but to put in place our alternative continuity arrangements. That will mean empowering ministers to act while ensuring that they are fully accountable to this Parliament.

My Labour colleagues will cautiously support the bill on the basis that, as Neil Findlay said, the bill

has been improved. We also recognise the benefits of negotiation and the need for an agreement to be reached between the UK Government and the devolved Administrations. The solution to the impasse that we face could be non-legislative. It could be in the form of—as has been mentioned in the past few days—a sunset clause or so-called standstill agreements in which the appropriate powers are devolved but the Governments agree not to diverge until a common framework is agreed.

Just as the Parliament has scrutinised the bill closely and won assurances that there will be further scrutiny in the future, so, too, must this Parliament have a role in scrutinising the negotiations and any deal that is agreed. However the negotiations unfold, this Parliament must not be sidelined or marginalised by either Government.

19:03

**Mike Rumbles (North East Scotland) (LD):** When the Scottish Government introduced the continuity bill, the Presiding Officer, as the neutral chair of our Parliament, declared that it was beyond the competence of our Parliament and that, if it was passed, it would not be law. The Lord Advocate, who is the Scottish Government's senior law officer, advised the Government that, in his view, the bill was competent and would be lawful if it was passed. At that point, the Scottish Government should have recognised that, since there is legal dubiety about the bill, to say the least, it would have been wiser not to have introduced it in the form that it did. However, it was introduced, it progressed through stages 1 and 2 and we now have the final and important stage 3 vote.

The Presiding Officer's ruling—it is not advice; it is his ruling—that the bill is not competent cannot simply be ignored now that we are at the stage 3 vote.

**Jamie Greene (West Scotland) (Con):** Will the member take an intervention?

**Mike Rumbles:** No, I will not. I want to make this point. I am not finding it particularly easy, but it is a point that I want to make.

If the Parliament passes this bill tonight, after 30 days it will be sent to Her Majesty for royal assent. The Presiding Officer has made it clear that, if we pass the bill at stage 3, it will not be law.

I want to make it absolutely clear that I am not commenting on anyone else's decision to vote on the bill one way or the other. As MSPs, we all know that we must take individual responsibility for the way that we individually vote in our Parliament. However, I believe that the bill will be referred to

the Supreme Court, and the likelihood is that it will be found to be illegal—beyond the competence of our devolved Parliament. [*Interruption.*] This is not funny—it is a serious point.

I believe that our devolved Parliament's reputation will be greatly damaged because of that referral to the Supreme Court, and it will be damaged unnecessarily. Furthermore, I am not the only one who believes that. I will not ignore our Presiding Officer's ruling and I want no part in voting for what I believe to be an illegal bill, which is why I will vote against the bill at decision time.

19:06

**Ash Denham (Edinburgh Eastern) (SNP):** The UK's continuing bungled attempts to negotiate withdrawal from the European Union have, indeed, been a sight to behold—the very unedifying spectacle of a weak and divided UK Government lurching from crisis to crisis. Not content with lowering our international standing at every possible opportunity, it approached negotiations with the EU27 armed only with the much-derided cake strategy.

The UK Government then decided to introduce at Westminster its EU withdrawal bill, which was drafted in such a way as to put it on a collision course with a constitutional crisis at home.

That is the situation that the Scottish Parliament now finds itself in. The conclusion that must be drawn is that the UK Government either wants to roll back devolution or simply fails to understand devolution properly. Neither is good.

After all, this is a UK Government that, despite repeated explanations, simply cannot seem to grasp the sheer enormity of the gulf between the meaning of the word “consult” and the meaning of the word “consent”. Those words might be indistinguishable from one another in Whitehall, but in Edinburgh we can see that there is a clear and understandable difference: it is the difference between devolution as we know it and an assault on Scotland's Parliament.

The Scottish Government, faced with the mounting prospect of a no-agreement scenario, really had no viable alternative. It has done what any sensible and responsible Government would do, and has embarked on contingency planning in the shape of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill.

It is to the credit of the Scottish Government that it has engaged with all the constructive criticism of the bill. The Finance and Constitution Committee, on which I sit, has waded through more than 200 amendments over hours and hours, even though many of those that were lodged by the Conservatives—who are making noises from their

seats, at the moment—were not designed to improve the bill, but were wrecking amendments that were meant to derail it.

The minister has listened to the debates and criticisms, and has adapted the bill accordingly. Many constructive amendments have been accepted through that process. I believe that the bill is stronger and better as a result.

I am glad that the Conservatives' trivial party-political games did not succeed in derailing the bill, because Scotland is watching. It did not approve of what I was seeing, which was gleeful schoolboy antics, at a time when Scotland's future and the living standards of millions are on the line.

It is certainly not for the Tories to decide whether to hand back the powers of this Parliament when devolution is the settled will of the Scottish people. In this entire circus that we call Brexit, from the offices of Whitehall and the committees and debates of Westminster to the negotiating rooms of the EU, Scotland is but an afterthought, if it is even thought of at all. This Parliament is the only place where Scottish interests are put first, and that is what we are here to do. The Tories should learn that lesson.

The UK Government should not be afraid or unwilling to engage with the devolved nations. The fact that it is not able to do so means that we must act on our own behalf, so this Parliament should make no apologies for this legislation—if the bill is passed this evening—and for standing up for Scottish interests.

I am disappointed, but not surprised, to see that the Tories have once again fallen in behind their Westminster bosses. Their repeated platitudes about “bringing powers home”, “taking back control” and “speaking for Scotland” ring very hollow when they are so eager—happy, even—to serve up the powers of this Parliament on a silver platter. I made that very point in the chamber one year ago to howls of outrage from Conservative members—yet here we are, with the Tories again showing their true colours.

I am very pleased to support the bill this evening.

19:11

**James Kelly (Glasgow) (Lab):** As other members have done, I want to thank the parliamentary staff, particularly the clerks and support staff on the Finance and Constitution Committee and all the party staff. I also pay tribute to MSPs for scrutinising the bill, which, as Neil Findlay said, has gone through Parliament at breakneck speed.

Let us be honest: this is not the ideal way to deal with legislation, and there have been some

shortcomings in the process. However, as Tavish Scott pointed out, we agreed to the emergency process, and there was therefore a responsibility on Parliament and parliamentarians to do the job properly. I believe that, on the whole, we have done so.

It is important to recognise that it is the disarray in the Tory party that has brought us here; the same disarray has created this European crisis. We should not forget that we ended up with an EU referendum because David Cameron tried to placate people within the Tory party who were unhappy about the EU policy that the Government of the time was pursuing. That drove us to the situation on 23 June 2016, when the country voted for Brexit. David Cameron did not think that that was going to happen; he thought that he could gamble and get away with it.

We are still seeing, right up to this day, the divisions in the Tory party and the failure of Tory MSPs, Tory MPs and Tory Government ministers to get agreement on clause 11 of the withdrawal bill, and it has put the Scottish Government in the position of having to introduce emergency legislation. We had some reservations about the bill at stage 1; however, although it is by no means perfect, Scottish Labour will certainly be supporting it, because it gives us protection of the devolution settlement, instead of our having to face the dangerous clause 11 power grab.

The bill has some serious implications. For a start, Mr Rumbles's speech shows that there is division in the Liberal group, too. I have to say that I would not fancy being the chief whip on that group.

**Neil Findlay:** Mr Rumbles is the chief whip. *[Laughter.]*

**James Kelly:** However, as Mr Rumbles pointed out, we have reached the end of the process, and we still have differing legal opinions from the Presiding Officer, the Lord Advocate and legal experts. There is a danger that the issue will end up in court, which is regrettable and not, I am sure, something that Parliament wants.

**John Mason (Glasgow Shettleston) (SNP):** I do not always agree with James Kelly, but he is making a good point. Does he agree that Mr Rumbles's argument is not really so strong because lots of bills and acts have been challenged in the courts?

**James Kelly:** That is true, but I still accept that the issue is potentially a difficult one for Parliament, in that it could end up in the courts. In addition, we potentially have two competing sets of legislation in the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill and the European Union (Withdrawal) Bill at

Westminster. That will create a real sense of crisis, which is a problem.

As Neil Bibby said, the bill has evolved. We support it from the point of view of protecting the devolution settlement.

**Jamie Greene:** Will James Kelly take an intervention?

**James Kelly:** I am sorry; I do not have enough time.

Important changes were made in relation to the regulations that were set out in the bill and section 13. Too much power would have been in the hands of ministers, with not enough in the hands of Parliament. That has been redressed somewhat throughout the process.

Important amendments relating to the environment and animal sentience have also been agreed, and Anas Sarwar's amendment on health and social care was important. The bill has evolved.

Fundamentally, this is not an ideal situation to be in, but Labour will support the bill because, ultimately, we support protecting the devolution settlement and we will not support a situation, which is still advocated by the Tories at Westminster, that undermines that settlement. We will support the bill, come decision time at half past 7.

19:16

**Donald Cameron (Highlands and Islands) (Con):** I pay tribute to Mike Rumbles for his moving and principled speech. He said that he would vote against the bill not for party political reasons but because of the respect that he has for the Parliament, the Presiding Officer and the concept of legislative competence. If only his words would shake other parliamentarians from their stupor.

I want to concentrate on two points: the keeping-pace power and the complexity of having different legal regimes for devolved and reserved areas.

Section 13 has undoubtedly been improved. To be frank, it could not have started off much worse. The minister has acknowledged that it has conferred a very broad power, but it remains a striking political choice by the Government that goes well beyond what is in the UK bill. It is simply not necessary. We already have the ability to make primary legislation, and the Government can make secondary legislation in devolved areas. That power exists, and we can quickly legislate in whatever way we like. We do not need the power in section 13. It remains an extraordinary and audacious attempt to accrue power to the Executive.

Let me give one example of the legal complications of the UK European Union (Withdrawal) Bill sitting alongside the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. If both are passed, we will work across devolved and reserved areas with 16 different definitions of the law. We will have EU-derived domestic legislation, direct EU legislation, retained EU law, retained case law, retained domestic case law, retained UK case law, retained general principles of EU law and devolved EU-derived domestic legislation—I could go on. That is a recipe for disaster.

More potently, the Scottish Government's very own bill policy memorandum says that the bill will add complexity and presents "serious logistical challenges". The Scottish Government underplays that. The bill is a constitutional and legal horror show of epic proportions. I am sure that it is welcomed with glee by the legal profession, but by no one else. [*Interruption.*]

**The Deputy Presiding Officer:** Please. I would like to hear Mr Cameron.

**Donald Cameron:** That has not been helped by the fact that the bill is emergency legislation. I have no hesitation in continuing to decry that disgraceful decision. We simply have not had enough time. The fact of the matter is that the bill has had insufficient scrutiny and debate, and there has been nowhere near enough time to discuss something that will have major constitutional ramifications. We had to rush through hundreds of amendments at stage 2. That tells us everything that we need to know about the Government's attitude. Even today, we had 64 amendments, and we had only a few hours to get through them all. That has had absurd results. We saw a situation in which the Scottish Government moved Mr Greene's amendments, and there have been assertions about what happened in the Delegated Powers and Law Reform Committee. That is what happens when we legislate with undue haste. We are making a mockery of ourselves. [*Interruption.*]

Despite my disappointment with the way in which the process has been carried out, I pay tribute to the clerks, the parliamentary staff and everyone who has been involved in getting things together for each stage of the bill process, which has involved late nights and early starts. The individuals concerned have gone above and beyond the call of duty, and I thank them for that. Stage 2 especially was convened heroically by Bruce Crawford. In the spirit of generosity, I thank the minister for conceding to some of our amendments.

However, it remains our intention to vote against the bill. If it is to be passed by the Parliament, it is of course preferable that it is passed in a better state than it was originally in. I am confident that

that is the case, but the fundamental facts remain. If, as is likely to happen, the bill is passed, we will put on to the statute book legislation about the constitution that is of dubious legality—I emphasise that it is a matter of legality—that has been rushed through the Parliament and which will complicate the Brexit process, not simplify it.

**Bruce Crawford** rose—

**Members:** Give way!

**The Deputy Presiding Officer:** The member is closing. Sit down, Mr Crawford.

**Donald Cameron:** There has been much talk about the devolution settlement. One does not protect that settlement by defying the Presiding Officer on legislative competence, by railroading the bill through Parliament on the false pretence that it is some kind of national emergency or by imperilling negotiations between our Governments at a critical time by passing this wretched, reckless and lamentable legislation.

**The Deputy Presiding Officer:** I call Michael Russell to close for the Government. You have until decision time, if you wish.

19:21

**Michael Russell:** Thank you, Presiding Officer.

I will start on a personal note by giving another set of thanks. I have reserved this until the very end. I thank my bill team, in particular. There is a tradition in the civil service whereby, if you get caught in a photograph in the press, you have to buy people cakes. I intend to buy the members of my bill team a very large drink tonight, because they have managed to help me out on every possible occasion. They have also helped out individual members, particularly with amendments, and I am grateful for the work that they have done over the past two weekends in getting the bill to the good state that it is in now. [*Applause.*] They will be embarrassed by this, but I also thank my private office, my constituency office and my parliamentary office staff, all of whom have supported me in what has been an unusual month.

It has also been unusual because I have lived to my 65th year—

**Neil Findlay:** Never.

**Michael Russell:** Well, I am not yet 65, and I am looking forward to Mr Findlay celebrating my 65th birthday, which he will probably do by burning me in effigy, but that does not matter too much.

**Neil Findlay:** That was last year.

**Michael Russell:** He will build a better effigy this year.

I have lived to my 65th year to find myself described in terms that are usually applied to punk rockers. Gordon Lindhurst said that the actions that I was taking in the bill had about them

“the whiff of anarchy and lawlessness”.—[*Official Report, Finance and Constitution Committee*, 13 March 2018; c 7.]

I have long aspired to have that said about my actions, and now it has happened. [*Interruption.*] My friend Roseanna Cunningham finds that remarkable, but that was said at stage 2—it is in the *Official Report*.

Tonight, the mild-mannered Mr Cameron used the phrase “horror show” along with the words “disgraceful”, “mockery”, “defiance” and “railroading” among many others. I really think that the Scottish Tories should calm down. They should also think about language, because they keep talking about a “good Brexit”. There is no such thing as a good Brexit. Perhaps we can mitigate the damage that Brexit will do. Through membership of the single market and the customs union, we might be able to maintain some essential links, but for our agriculture, health, higher education, hospitality and environmental sectors and for employees and ordinary citizens—although this is perhaps not the case for millionaires—there is no good Brexit.

It is not possible to dissemble on such matters or to fail to tell the truth. Brexit is the wrong thing for Scotland and for everyone who lives in Scotland. What I find hardest to take in all of this is that people who knew that up to and on 23 June 2016 have not forgotten that—they know that that is still true—but now they are saying the opposite for purely party-political reasons. They are going to damage Scotland absolutely irrevocably for a long period of time because they are doing things that they know are wrong. I ask members to let that sink in: they are doing things that they know are wrong.

What can we do? I hope that, together, as much as we can—I have worked hard over the past few weeks to achieve a consensus in this chamber—we will, first of all, defend the democratic rights of the people of this country, which means, at this stage, defending devolution. We should insist that the UK Government listens to and recognises the views of Scotland and the need for differentiation. We should find ways to preserve our membership of the single market and the customs union as the least-bad option, and we should never give up on the obligation to observe the mandate of the 2016 referendum, in which Scotland rejected Brexit.

Those are things that we should do, and we could do, together. What we should not do is pretend that Brexit will be good for Scotland. It will not. We should not shrug resignedly and say, “Well, there’s nothing can be done,” because there

are things that can be done. We should not connive with or enable those who wish to reverse devolution as a way of getting Brexit, because that is what we have seen over the past four weeks.

That is a big issue, because, up until the past four weeks, the Tories have tried to defend devolution and I have worked with some of them on that. However, their actions over the past four weeks—their continued actions and their rhetoric—are those of a party that has decided to roll back devolution and obstruct anything that defends devolution.

**Patrick Harvie:** The UK Government has been well aware that we are on course to pass the bill at stage 3 tonight. I am curious to know whether it has, at any point, indicated the remotest hint of a clear proposal for changes that it will make to its EU withdrawal bill that are compatible with devolution. Is there any movement that we should be aware of from the UK Government that shows that it is remotely interested in the devolution settlement?

**Michael Russell:** I will try to be helpful in this situation, and what I would say is this: today starts a new chapter in this story. I am addressing the issue that Mr Harvie raises by saying this. I hope that, by the end of this evening, the Scottish and Welsh Parliaments—the Welsh Parliament has already decided, and the Scottish Parliament will decide in a few moments—will be armed with an alternative to the way in which the United Kingdom Government wishes to treat devolution.

We will not go naked into the Westminster negotiating chamber any longer. We will have an ability to negotiate on the basis of an alternative that we have put in place ourselves. We can and will make the bill work if we have to. We will protect the key issues that we have focused on in the bill—I gave that commitment earlier this evening. Now, the ball is firmly in Westminster’s court. If it wants to come to the table and discuss these issues—I hope that it does—it will know that we have the alternative and that we are able to operate it. Let us now see what takes place.

**Jamie Greene:** Will the minister take an intervention?

**Michael Russell:** No, I will not.

It has been a long three and a half weeks. It has been a long few months as the possibility of the bill became more and more likely. However, there is much still to be done, and there is a key message that needs to go out from this chamber: Brexit is bad for Scotland. We need to go on making that point, because it is the basic point.

We need to stop the damage that Brexit is likely to do to Scotland, and we need to make it absolutely clear that those people who seek to

impose Brexit on a country that did not vote for Brexit are the people who are doing down Scotland, damaging Scotland and damaging every sector of Scotland. By their works you will know them, and the works are the works of the Tory party.

## Business Motions

19:29

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of four business motions: motion S5M-11215, to revise business tomorrow; motion S5M-11161, setting out a business programme; and motions S5M-11162 and S5M-11163, on timetables for two bills.

*Motions moved,*

That the Parliament agrees to the following revision to the programme of business for Thursday 22 March—

delete

2.30 pm Scottish Government Debate: Building Greater Fairness in the Workplace

and insert

2.30 pm Ministerial Statement: Update on Major Infrastructure Projects

*followed by* Scottish Government Debate: Building Greater Fairness in the Workplace

That the Parliament agrees—

(a) the following programme of business—

Tuesday 27 March 2018

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Ministerial Statement: Fair Start Scotland: Launching Scotland's New Employment Support Service and Welcoming the Opportunity for Better Integration and Alignment

*followed by* Local Government and Communities Committee Debate: City Regions - Deal or No Deal?

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 28 March 2018

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Finance and the Constitution; Economy, Jobs and Fair Work

*followed by* Scottish Green Party Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 29 March 2018

11.40 am Parliamentary Bureau Motions

11.40 am General Questions  
 12.00 pm First Minister's Questions  
*followed by* Members' Business  
 2.30 pm Parliamentary Bureau Motions  
 2.30 pm Ministerial Statement: Every Child,  
 Every Chance: Scotland's First Tackling  
 Child Poverty Delivery Plan 2018-2022  
*followed by* Scottish Government Debate: Scotland's  
 Support for the (UNESCO) Convention  
 for the Safeguarding of Intangible  
 Cultural Heritage  
*followed by* Stage 1 Debate: Housing (Amendment)  
 (Scotland) Bill  
*followed by* Legislative Consent Motion: Laser  
 Misuse (Vehicles) Bill – UK Legislation  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time

Tuesday 17 April 2018

2.00 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Topical Questions (if selected)  
*followed by* Scottish Government Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Wednesday 18 April 2018

2.00 pm Parliamentary Bureau Motions  
 2.00 pm Portfolio Questions:  
 Environment, Climate Change and Land  
 Reform;  
 Rural Economy and Connectivity  
*followed by* Scottish Government Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Thursday 19 April 2018

11.40 am Parliamentary Bureau Motions  
 11.40 am General Questions  
 12.00 pm First Minister's Questions  
*followed by* Members' Business  
 2.30 pm Parliamentary Bureau Motions  
*followed by* Scottish Government Business  
*followed by* Business Motions  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time

and (b) that, in relation to First Minister's Questions on 29

March 2018, in rule 13.6.2, insert at end "and may provide an opportunity for Party Leaders or their representatives to question the First Minister".

That the Parliament agrees that consideration of the Management of Offenders (Scotland) Bill at stage 1 be completed by 14 September 2018.

That the Parliament agrees that consideration of the Land and Buildings Transaction Tax (Relief from Additional Amount) (Scotland) Bill at stage 2 be completed by 27 April 2018.—[*Joe FitzPatrick*]

*Motions agreed to.*

## Parliamentary Bureau Motions

19:30

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of five Parliamentary Bureau motions. I ask Joe FitzPatrick, on the behalf of the Parliamentary Bureau, to move motion S5M-11164, on committee meeting times; motions S5M-11165 and S5M-11166, on designation of lead committees; and motions S5M-11167 and S5M-11168, on approval of Scottish statutory instruments.

### *Motions moved,*

That the Parliament agrees that, under Rule 12.3.3B of Standing Orders, the Rural Economy and Connectivity Committee can meet, if necessary, at the same time as a meeting of the Parliament from 11.40 am to 12 noon on 19 April for the purpose of meeting with the Secretary of State for Environment, Food and Rural Affairs.

That the Parliament agrees that the Rural Economy and Connectivity Committee be designated as the lead committee in consideration of the legislative consent memorandum in relation to the Laser Misuse (Vehicles) Bill (UK Legislation).

That the Parliament agrees that the Equalities and Human Rights Committee be designated as the lead committee in consideration of the Age of Criminal Responsibility (Scotland) Bill at stage 1.

That the Parliament agrees that the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] be approved.

That the Parliament agrees that the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] be approved.—[*Joe FitzPatrick*]

## Decision Time

19:30

**The Presiding Officer:** The first question is, that motion S5M-11136, in the name of Michael Russell, on the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### **For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)



MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)

Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rumbles, Mike (North East Scotland) (LD)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 95, Against 32, Abstentions 0.

*Motion agreed to,*

That the Parliament agrees that the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill be passed.

[*Applause.*]

**The Presiding Officer:** I propose to ask a single question on the five Parliamentary Bureau motions. The question is, that motions S5M-11164 to S5M-11168 be agreed to.

*Motions agreed to,*

That the Parliament agrees that, under Rule 12.3.3B of Standing Orders, the Rural Economy and Connectivity Committee can meet, if necessary, at the same time as a meeting of the Parliament from 11.40 am to 12 noon on 19 April for the purpose of meeting with the Secretary of State for Environment, Food and Rural Affairs.

That the Parliament agrees that the Rural Economy and Connectivity Committee be designated as the lead committee in consideration of the legislative consent memorandum in relation to the Laser Misuse (Vehicles) Bill (UK Legislation).

That the Parliament agrees that the Equalities and Human Rights Committee be designated as the lead committee in consideration of the Age of Criminal Responsibility (Scotland) Bill at stage 1.

That the Parliament agrees that the Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 [draft] be approved.

That the Parliament agrees that the Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [draft] be approved.

*Meeting closed at 19:32.*



This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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