

European Charter of Local Self-Government (Incorporation) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Interpretation of the Charter Articles

1

Duty to act compatibly with the Charter Articles

2, 3, 4

Duty to promote local self-government: consultation

5

Interpretation of legislation

6, 7, 8

Declaration of incompatibility

9, 10, 11

Regulations and scrutiny of regulations

19, 13, 13A

Power to remove or limit retrospective effect of decisions etc.

14, 15, 16, 17

Ancillary provision

18

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Interpretation of the Charter Articles

Aileen Campbell

1 In section 1, page 1, line 7, at end insert—

<() For the purposes of this Act, the Charter Articles are to be read subject to any reservations, objections or interpretative declarations by the United Kingdom as may be in force from time to time.>

Duty to act compatibly with the Charter Articles

Andy Wightman

Supported by: Aileen Campbell

2 In section 2, page 1, line 12, leave out subsection (1) and insert—

<(1) The Scottish Ministers must ensure that any action they take in the exercise of their functions is compatible with the Charter Articles.>

Aileen Campbell

Supported by: Andy Wightman

3 In section 2, page 1, line 19, leave out from <, introduction> to end of line and insert <or introduction of, or the exercise of other functions in relation to, a Bill for an Act of the Scottish Parliament>

Andy Wightman

Supported by: Aileen Campbell

4 In section 2, page 1, leave out line 20 and insert—

<() For the purposes of subsection (1), a failure to act (including a failure to make subordinate legislation) is to be treated as the taking of action.>

Duty to promote local self-government: consultation

Aileen Campbell

Supported by: Andy Wightman

5 In section 3, page 2, line 14, leave out <persons with an interest in local government in Scotland> and insert <—

(a) such persons appearing to them to be representative of the interests of local authorities, and

(b) such other persons as they consider appropriate>

THIS IS NOT THE MARSHALLED LIST

Interpretation of legislation

Aileen Campbell

Supported by: Andy Wightman

- 6 In section 4, page 2, line 16, leave out from <(whether> to <Parliament> in line 18 and insert <mentioned in subsection (1A)>

Aileen Campbell

Supported by: Andy Wightman

- 7 In section 4, page 2, line 19, at end insert—
<(1A) That legislation is an Act or subordinate legislation (whenever enacted) to the extent that its provisions are within the legislative competence of the Scottish Parliament.>

Aileen Campbell

Supported by: Andy Wightman

- 8 In section 4, page 2, leave out line 21

Declaration of incompatibility

Andy Wightman

Supported by: Aileen Campbell

- 9 In section 5, page 2, line 38, after <Court> insert <of the United Kingdom>

Andy Wightman

Supported by: Aileen Campbell

- 10 In section 5, page 3, line 4, leave out <only>

Andy Wightman

Supported by: Aileen Campbell

- 11 In section 5, page 3, line 5, after <legislation> insert <only>

Regulations and scrutiny of regulations

Andy Wightman

Supported by: Aileen Campbell

- 19 In section 6, page 3, line 10, at end insert—
<() Regulations made under subsection (1) may not create, widen the scope of, or increase the penalty for, a criminal offence.>

THIS IS NOT THE MARSHALLED LIST

Andy Wightman

Supported by: Aileen Campbell

13 After section 6, insert—

<Enhanced scrutiny of regulations under section 6(1)

- (1) Before laying a draft Scottish statutory instrument containing regulations under section 6(1) before the Scottish Parliament for approval, the Scottish Ministers must lay before the Parliament—
 - (a) a draft of the regulations, and
 - (b) an explanatory statement complying with subsection (2).
- (2) The explanatory statement must explain—
 - (a) the nature of the incompatibility with the Charter Articles to which the draft regulations relate,
 - (b) how the draft regulations address the incompatibility,
 - (c) whether the draft regulations include provision that goes beyond what is necessary to address the incompatibility and, if so, why that provision is included, and
 - (d) why the Scottish Ministers are proposing to use the power under section 6(1) as opposed to taking other action.
- (3) Where the Scottish Ministers lay draft regulations under subsection (1)(a), they must not lay before the Scottish Parliament for approval a draft Scottish statutory instrument containing the regulations before the expiry of the period of 60 days beginning with the day on which the draft regulations are laid under subsection (1)(a).
- (4) In calculating the period of 60 days for the purposes of subsection (3), no account is to be taken of any period during which the Parliament is—
 - (a) dissolved, or
 - (b) in recess for more than 4 days.>

Aileen Campbell

13A As an amendment to amendment 13, line 23, at end insert—

- <() Failure to comply with the requirement in subsection (3) in relation to a draft Scottish statutory instrument does not prevent the regulations contained in the draft instrument from being approved and made.
- () Where a draft Scottish statutory instrument is laid before the Scottish Parliament for approval in breach of the requirement in subsection (3), the Scottish Ministers must explain to the Presiding Officer why the requirement has been breached.>

Power to remove or limit retrospective effect of decisions etc.

Andy Wightman

Supported by: Aileen Campbell

14 In section 7, page 3, line 15, after <where> insert <a court decides that>

THIS IS NOT THE MARSHALLED LIST

Andy Wightman

Supported by: Aileen Campbell

- 15 In section 7, page 3, line 16, leave out <a court decides that>

Andy Wightman

Supported by: Aileen Campbell

- 16 In section 7, page 3, line 17, leave out <this Act> and insert <section 2>

Andy Wightman

Supported by: Aileen Campbell

- 17 In section 7, page 3, leave out lines 18 and 19 and insert—

<(ii) (disregarding any possibility of revocation) primary legislation does not prevent removal of the incompatibility.>

Ancillary provision

Aileen Campbell

- 18 After section 9, insert—

<Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).>

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