

UK Withdrawal from the European Union (Continuity)
(Scotland) Bill
(Environment, Climate Change and Land Reform Committee)

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 9 to 15	Schedule 1
Sections 16 to 18	Schedule 2
Sections 19 to 41	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 9

Mark Ruskell

1022 In section 9, page 7, line 23, after <environment> insert <and animal welfare>

Stewart Stevenson

1053 In section 9, page 7, line 24, at end insert—

<() the principle that protecting the environment should be integrated into the making of policies,>

Claudia Beamish

1054 In section 9, page 7, line 25 leave out <as it relates to the environment>

Mark Ruskell

Supported by: Liam McArthur

1001 In section 9, page 7, line 29, at end insert—

<() the principle that in developing policies on the environment the Scottish Ministers must aim at a high level of protection.>

Claudia Beamish

1001A As an amendment to amendment 1001, line 3, at end insert <in particular with a view to promoting sustainable development.>

Mark Ruskell
Supported by: Liam McArthur

1002 In section 9, page 7, line 29, at end insert—

<() the principle that environmental protection requirements must be integrated into the implementation of the Scottish Ministers’ policies and activities.>

Mark Ruskell

1023* In section 9, page 7, line 29, at end insert—

<() the principle that regard must be had to the welfare requirements of animals as sentient beings.>

Mark Ruskell
Supported by: Liam McArthur

1003 In section 9, page 7, line 30, after <Article> insert <11 of Title II and Article>

Mark Ruskell

1024 In section 9, page 7, line 30, after <Article> insert <13 of Title II and Article>

Mark Ruskell

1025 In section 9, page 7, line 37, after <environment> insert <and animal welfare>

Mark Ruskell

1026 In section 9, page 8, line 4, after <environment> insert <and animal welfare>

Stewart Stevenson

1055 In section 9, page 8, line 19, after <Chapter> insert <—

“making policies” includes developing, adopting or revising policies,>

After section 9

Claudia Beamish

1016 After section 9, insert—

<Environmental policy strategy

- (1) The Scottish Ministers must prepare and publish an environmental policy strategy.
- (2) The purpose of the strategy is to—

5 (a) secure the maintenance of environmental standards at a level comparable to those applying before the United Kingdom withdrawal from the EU,

(b) secure the application of the guiding principles on the environment (within the meaning of section 9(1)) to all forms of public policy and decision making,

10 (c) secure the improved co-ordination and implementation of any public policy with an environmental objective.

- (3) The strategy must contain—
- (a) the Scottish Ministers’ policies and proposals in relation to environmental policy and the protection and recovery of the natural environment,
 - (b) proposals for legislation to implement their policies and proposals.
- 15 (4) In preparing the strategy, the Scottish Ministers must consult—
- (a) such Scottish public authorities, or bodies representative of the interest of such Scottish public authorities, as would be affected by the proposals,
 - (b) such organisations and individuals with expertise as appropriate to the strategy,
 - (c) such other persons as the Scottish Ministers consider appropriate.
- 20 (5) The Scottish Ministers must no later than the end of the period of 6 months beginning with the day on which this section comes into force—
- (a) publish the environmental policy strategy,
 - (b) lay before the Scottish Parliament—
 - 25 (i) the environmental policy strategy,
 - (ii) a report setting out any comments received in response to the consultation under subsection (4) including the Scottish Ministers’ views on those comments and any actions the Scottish Ministers intend to take.
- (6) In subsection (3), “legislation” includes—
- 30 (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) subordinate legislation.>

Mark Ruskell

1016A As an amendment to amendment 1016, line 10, at end insert—

<() secure improved protection, restoration and enhancement of the environment and biodiversity of Scotland.>

Claudia Beamish

1016B As an amendment to amendment 1016, line 14, at end insert—

<() The strategy must set out the steps the Scottish Ministers are to take to ensure that any targets proposed by the strategy are legally-binding.>

Section 10

Stewart Stevenson

1056 In section 10, page 8, line 22, leave out <developing> and insert <making>

Finlay Carson

1065 In section 10, page 8, line 23, leave out <have regard to> and insert <have due regard to>

Liam McArthur

1006 In section 10, page 8, line 23, leave out <have regard to> and insert <act in accordance with>

Mark Ruskell

1027 In section 10, page 8, line 23, after <environment> insert <and animal welfare>

Claudia Beamish

1057 In section 10, page 8, line 23, after <environment> insert <and act in accordance with the environmental policy strategy>

Stewart Stevenson

1058 In section 10, page 8, line 24, leave out <developing> and insert <making>

Liam McArthur

1007 In section 10, page 8, line 25, leave out <have regard to> and insert <act in accordance with>

Mark Ruskell

1028 In section 10, page 8, line 26, after <environment> insert <and animal welfare>

Mark Ruskell

1004 In section 10, page 8, line 29, leave out <national defence>

Mark Ruskell

1005 In section 10, page 8, leave out line 30

Roseanna Cunningham

1029 In section 10, page 8, line 31, leave out subsections (4) and (5)

Alex Rowley

1059 In section 10, page 8, line 34, leave out <negative> and insert <affirmative>

Section 11

Finlay Carson

1066 In section 11, page 9, line 4, leave out <have regard to> and insert <have due regard to>

Liam McArthur

1008 In section 11, page 9, line 4, leave out <have regard to> and insert <act in accordance with>

Mark Ruskell

1030 In section 11, page 9, line 5, after <environment> insert <and animal welfare>

Angus MacDonald

1017 In section 11, page 9, line 7, at end insert—

<(3) The 2005 Act is amended in accordance with subsection (4).

(4) In section 18 (information as to adoption of a qualifying plan or programme)—

(a) in subsection (3), after paragraph (a) insert—

“(aa) how regard has been had to the guiding principles on the environment,”,

(b) after subsection (4) insert—

“(5) In this section, the “guiding principles on the environment” means the principles for the time being set out in section 9 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2020.”.>

Section 12

Roseanna Cunningham

1031 In section 12, page 9, line 13, after <environment"> insert <—

(a)>

Roseanna Cunningham

1032 In section 12, page 9, line 15, at end insert <, and

(b) includes wild animal and plant life and the habitats of wild animal and plant life.

() In subsection (2)(b), “animal and plant life” includes any living organisms.>

Section 13

Mark Ruskell

1033 In section 13, page 9, line 18, after <environment> insert <and animal welfare>

Section 15

Mark Ruskell

1034 In section 15, page 10, line 25, leave out <Scotland> and insert <Commission>

Mark Ruskell

1035 In section 15, page 10, line 25, leave out <Ìrean Àrainneachdail na h-Alba> and insert <Coimisean Ìrean Àrainneachdail>

Mark Ruskell

1036 In section 15, page 10, line 28, leave out <Scotland> and insert <Commission>

Schedule 1

Claudia Beamish

1060 In schedule 1, page 27, line 7, leave out <in this or any other enactment> and insert <relating to the annual accounts of Environmental Standards Scotland>

Mark Ruskell

1037 In schedule 1, page 27, line 9, leave out paragraph 2 and insert—

<Membership

2 (1) The Commission consists of the following members—

(a) a member appointed to chair the Commission, and

(b) not more than 4 other members.

(2) The member to chair the Commission is to be an individual appointed by Her Majesty on the nomination of the Scottish Parliament.

(3) The other members are to be individuals appointed by the Parliamentary corporation.>

Claudia Beamish

1010 In schedule 1, page 27, line 12, at end insert—

<() The Scottish Ministers may not appoint any person as a member until the Scottish Parliament has approved the terms and conditions of appointment, including any person specifications or experience.>

Claudia Beamish

1011 In schedule 1, page 27, line 12, at end insert—

<() In identifying a person to appoint as a member, the Scottish Ministers must invite nominations or recommendations from the Scottish Parliament.>

Angus MacDonald

1021 In schedule 1, page 27, line 14, at end insert—

<() In appointing members, the Scottish Ministers must have regard, among other things, to the desirability of ensuring that the membership (taken as a whole) has expertise or experience in—

(a) law (including international law) relating to the natural environment,

(b) environmental science,

(c) environmental policy, and

(d) investigatory and enforcement proceedings.>

Mark Ruskell

1038 In schedule 1, page 27, line 31, leave out paragraph 3 and insert—

<Disqualification

- 3 (1) A person is disqualified from appointment, and from holding office, as a member of the Commission if that person is—
 - (a) a member of the House of Commons,
 - (b) a member of the Scottish Parliament,
 - (c) a member of the European Parliament.
- (2) A person is also disqualified from such appointment if that person has, in the relevant period, held any of the offices set out in sub-paragraph (1)(a) to (c).
- (3) The relevant period is—
 - (a) in relation to the appointment of a member to chair the Commission, the year preceding the date of the nomination,
 - (b) in relation to the appointment of any other member of the Commission, the year preceding the proposed date of the appointment.>

Mark Ruskell

1039 In schedule 1, page 28, line 28, leave out paragraphs 4 and 5 and insert—

<Terms of office and remuneration

- 4 (1) Each member of the Commission—
 - (a) holds office for such period not exceeding eight years as the Parliamentary corporation, at the time of the appointment, may determine, but
 - (b) is ineligible for reappointment at any time.
- (2) The member appointed to chair the Commission may be—
 - (a) relieved of office by Her Majesty at the member's request, or
 - (b) removed from the office by Her Majesty if condition A or B is satisfied.
- (3) Any other member of the Commission may be—
 - (a) relieved of office by the Preliminary corporation at the member's request, or
 - (b) removed from office by the Parliamentary corporation if condition A or B is satisfied.
- (4) Condition A is that—
 - (a) the Parliamentary corporation is satisfied that the member has breached the member's terms of appointment, and
 - (b) the Parliament resolves that the member should be removed from office for that reason.
- (5) Condition B is that Parliament resolved that it has lost confidence in the member's willingness, suitability or ability to perform that member's functions.
- (6) A resolution under sub-paragraph (4)(b) or (5), must be voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.
- (7) Each member of the Commission is entitled to—
 - (a) such remuneration, and
 - (b) such allowances,
 as the Parliamentary corporation may determine.

- (8) In other respects, each member of the Commission hold office on such terms and conditions as the Parliamentary corporation may determine.
- (9) Those terms and conditions, without prejudice to paragraph 4—
 - (a) prohibit the member from holding any other specified office, employment or appointment or engaging in any other specified occupation,
 - (b) provide that a member’s holding of any such office, employment or appointment or engagement in any such occupation is subject to the approval of the Parliamentary corporation,
 - (c) for the purposes of this sub-paragraph, provide differently for the member appointed to chair the Commission and the other members.
- (10) In sub-paragraph (9), “specified” means specified in the terms and conditions of within a description so specified.>

Alex Rowley

1061 In schedule 1, page 29, line 15, at end insert—

- <() Where they propose to give a person, other than the person who is the member appointed to chair Environmental Standards Scotland, notice under sub-paragraph (1)(c) that the person is to be removed from being a member, the Scottish Ministers must consult the member appointed to chair Environmental Standards Scotland.>

Mark Ruskell

1067 In schedule 1, page 30, line 22, at end insert—

<*Funding*

- (1) The Scottish Ministers must pay to Environmental Standards Scotland such sums as they consider are reasonably sufficient to enable it to carry out its functions.
- (2) The Scottish Ministers may provide further financial assistance to Environmental Standards Scotland (including by way of grants, loans, guarantees or indemnities) subject to such conditions as they may determine.>

Mark Ruskell

1040 In schedule 1, page 30, line 24, leave out paragraph 12

Mark Ruskell

1068 In schedule 1, page 30, line 30, at end insert—

- <() Without prejudice to the generality of sub-paragraph (2), each report must include an assessment by Environmental Standards Scotland of whether, in the financial year to which the report relates, the Scottish Ministers provided it with sufficient sums to carry out its functions.>

Mark Ruskell

1041 In Schedule 1, page 31, line 28, at end insert—

<*Finance*

- (1) The Parliamentary corporation is to—
 - (a) pay the remuneration and allowances of each member of the Commission,
 - (b) pay any expenses properly incurred by the Commission in the exercise of its functions, and
 - (c) indemnify the Commission in respect of any liabilities incurred by it in the exercise of its functions.
- (2) The Commission must, before the start of each financial year, prepare proposals for its use of resources and expenditure during the year and send proposals to the Parliamentary corporation for approval by such date as the Parliamentary corporation may determine.
- (3) The Commission may, in the course of a financial year, prepare revised proposals for its use of resources and expenditure during the remainder of the year and send the proposals to the Parliamentary corporation for approval.
- (4) Sub-paragraph (1)(b) does not require the Parliamentary corporation to pay any expenses incurred by the Commission which exceed, or are otherwise not covered by, any proposal approved under sub-paragraph (2) or (3).
- (5) However, the Parliamentary corporation may pay those expenses.
- (6) The financial year of the Commission is—
 - (a) the period beginning with the date on which the Commission is established and ending with 31st March next following that date, and
 - (b) each successive period of 12 months ending with 31st March.>

Section 16

Mark Ruskell

1015 In section 16, page 11, line 16, at end insert <and where appropriate make recommendations to the Scottish Ministers on whether to make provision by regulations under section 1(1),>

After section 16

Mark Ruskell

1042 After section 16, insert—

<Requirement to report to Parliament

- (1) The Scottish Ministers must lay draft regulations before the Parliament for approval, no later than one year after sections 15 and 16 come into force, modify section 16 to include reporting to the Parliament under Environmental Standards Scotland’s functions.
- (2) Regulations under subsection (1) must—
 - (a) outline how Environmental Standards Scotland must prepare and lay before the Scottish Parliament a report outlining—
 - (i) public authorities’ compliance with environmental law,
 - (ii) the effectiveness of environmental law and of how it is implemented and applied,

- (iii) any recommendations for Scottish Ministers to bring forward proposals for legislation to improve effectiveness of environmental law and how it is implemented and applied,
 - (b) state that the minimum reporting period be as soon as practicable after the end of each financial year and that if circumstances dictate, Environmental Standards Scotland may report more frequently as required within each financial year.
- (3) Regulations under subsection (1) may also set out how Environmental Standards Scotland may avoid any overlap between the exercise of its functions and the exercise by the Committee on Climate Change of that committee's functions or any other relevant monitoring body and its functions.
- (4) In subsection (2), "bring forward proposals for legislation" means—
 - (a) introduce a Bill for an Act of the Scottish Parliament, or
 - (b) make, or lay before the Parliament a draft of, regulations in exercise of powers in an Act of Parliament or an Act of the Scottish Parliament.
- (5) Regulations under subsection (1) are subject to the affirmative procedure.>

Schedule 2

Angus MacDonald

1062 In schedule 2, page 32, line 37, leave out <either>

Angus MacDonald

1063 In schedule 2, page 32, line 38, leave out <or the Commissioner for Ethical Standards in Public Life in Scotland> and insert <, the Commissioner for Ethical Standards in Public Life in Scotland, the Scottish Information Commissioner, Audit Scotland or the Committee on Climate Change>

Section 23

Angus MacDonald

1018 In section 23, page 14, leave out lines 1 to 4

Section 28

Angus MacDonald

1019 In section 28, page 16, leave out lines 19 to 22

Section 36

Roseanna Cunningham

1043 In section 36, page 20, line 21, leave out <has concluded that it intends to take no> and insert <does not intend to take any>

Roseanna Cunningham

1044 In section 36, page 20, line 22, at end insert—

- <() a disclosure made for the purposes of civil proceedings,
- () a disclosure made for the purposes of the investigation or prosecution of any offence or suspected offence or for the purposes of the prevention or detection of crime,
- () a disclosure made in pursuance of an order of a court or tribunal,
- () a disclosure made in accordance with any other enactment requiring or permitting the disclosure.>

Roseanna Cunningham

1045 In section 36, page 20, line 23, leave out subsections (3) to (7)

After section 36

Liz Smith

Supported by: Liam McArthur

1046 After section 36, insert—

<Duty to consult on further improvements

Duty to consult on further improvements

- (1) The Scottish Ministers must no later than the end of the period of 12 months beginning with the day of Royal Assent—
 - (a) prepare proposals about the matters set out in subsection (2),
 - (b) consult on those proposals in accordance with subsection (3), and
 - (c) lay before the Scottish Parliament a report setting out a summary of—
 - (i) the comments received in response to the consultation, and
 - (ii) the Scottish Ministers' view on those comments and their proposals for action.
- (2) The matters referred to in subsection (1)(a) are—
 - (a) whether the provisions in this Act have ensured that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the United Kingdom from the EU,
 - (b) whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and
 - (c) whether and in what form an environmental court should be established to enhance the governance arrangements referred to in paragraph (a).
- (3) The Scottish Ministers must consult—
 - (a) such Scottish public authorities, or bodies representative of the interest of such Scottish public authorities, as would be affected by the proposals,
 - (b) bodies representative of the interests affected by the application of the guiding principles on the environment (within the meaning of section 9 of this Act),
 - (c) such other persons as they consider appropriate.>

Section 39

Angus MacDonald

- 1020 In section 39, page 22, line 17, at end insert <and
() provision contained in any international obligation of the United Kingdom relating to environmental protection.>

Claudia Beamish

Supported by: Mark Ruskell

- 1012 In section 39, page 22, line 18, leave out subsection (4)

Mark Ruskell

Supported by: Claudia Beamish

- 1013 In section 39, page 22, line 23, leave out subsection (6)

Roseanna Cunningham

- 1047 In section 39, page 22, line 34, after <it> insert <—
(a)>

Roseanna Cunningham

- 1048 In section 39, page 22, line 38, at end insert <and
(b) in contributing to the implementation of any international obligation of the United Kingdom relating to environmental protection,>

Section 40

Claudia Beamish

- 1014 In section 40, page 23, line 19, leave out subsection (3) and insert—
<(3) In this Chapter, “the environment” includes all elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements.>

Roseanna Cunningham

- 1049 In section 40, page 23, line 19, after <environment”> insert <—
(a)>

Roseanna Cunningham

- 1050 In section 40, page 23, line 21, at end insert <, and
(b) includes wild animal and plant life and the habitats of wild animal and plant life.>

Roseanna Cunningham

1051 In section 40, page 23, line 27, at end insert—

<() In subsection (3)(b), “animal and plant life” includes any living organisms.>

Long Title

Mark Ruskell

1052 In the long title, page 1, line 4, after <environment> insert <and animal welfare>

Liam McArthur

1009 In the long title, page 1, line 4, leave out <have regard to> and insert <act in accordance with>

Stewart Stevenson

1064 In the long title, page 1, line 5, leave out <developing> and insert <making>

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