



BRIEFING PAPER

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Brexit divisions - Commons votes on the European Union (Withdrawal) Bill

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Summary

The *European Union (Withdrawal) Bill 2017-19* was introduced in the House of Commons on 13 July 2017. The Second Reading took place over two days on 7 and 11 September 2017.

A programme motion was agreed at the end of the Second Reading debate that allowed for eight days in Committee on the Floor of the House.¹

The Report Stage took place over two days – 16 and 17 January 2018 – and the Third Reading took place on 17 January 2018.²

In total, the House of Commons spent 96 hours debating the Bill before it was sent to the House of Lords.

The *European Union (Withdrawal) Bill 2017-19* will return to the Commons for consideration of Lords amendments on 12 and 13 June 2018.

This briefing paper provides information on the House of Commons divisions during the passage of the *European Union (Withdrawal) Bill* during its Second Reading, Report Stage and Third Reading in the Commons.

¹ A full summary of the Committee stage is available in the Commons Library briefing paper, [The European Union \(Withdrawal\) Bill 2017-19: Summary of Commons Committee Stage](#), 9 January 2018.

² The Third Reading debate is summarised, together with the Commons Report Stage, by the House of Lords Library briefing paper, [European Union \(Withdrawal\) Bill: Briefing for Lords Stages](#), 25 January 2018.

1. Commons Committee Stage

1.1 Day 1: 14 November 2017

Repeal of the European Communities Act 1972 (the ECA)

Repeal of ECA dependent on consent of devolved administrations

The Committee of the Whole House divided on amendment 79 tabled by Hywel Williams that repeal of the *European Communities Act 1972* on exit day would be conditional on the Prime Minister gaining consent from the devolved administrations. The Committee divided (Division 33) 52 in favour, 318 against.

Division 33: Listing by Party

AYES	52	NOES	318
Green Party	1	Conservative	304
Independent	1	Democratic Unionist Party	10
Labour	1	Independent	2
Liberal Democrats	12	Labour	3
Plaid Cymru	4		
Scottish National Party	33		

That Clause 1 stand part

The Committee divided on the motion that Clause 1 stand part of the Bill. This clause sought to repeal the European Communities Act on "Exit Day". The clause was not amended by the Committee of the Whole House and it was put that the Clause stand part.

In the division, the Clause was ordered to stand part with 318 in favour and 68 against (Division 34).

Division 34: Listing by Party

AYES	318	NOES	68
Conservative	303	Green Party	1
Democratic Unionist Party	10	Independent	1
Independent	2	Labour	19
Labour	3	Liberal Democrats	9
		Plaid Cymru	4
		Scottish National Party	34

Court of Justice of the European Union

Transition

The lead amendment was New Clause 14 tabled by Chris Leslie (Lab) which would have ensured that Ministers must set out in detail how the

provisions in Clause 6 would apply during a transitional period before the United Kingdom fully implements a withdrawal agreement. Introducing his amendment, Mr Leslie stated that his new clause sought clarification from the Government about how a transition would be put in place and would operate, including both how retained EU law would be interpreted during the transitional period and how the role of the European Court of Justice would operate. The New Clause was defeated on division (Division 35) with 296 in favour and 316 against.

Division 35: Listing by Party

AYES	296	NOES	316
Conservative	1	Conservative	303
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	243	Labour	2
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	34		

That “due regard” is given to relevant decisions of the European Court

An SNP-backed amendment (Amendment 137) sought to ensure that the courts “pay due regard to any relevant decision of the European Court”. The amendment was not passed with 296 voting in favour and 316 voting against (Division 36).

Division 36: Listing by Party

AYES	296	NOES	316
Conservative	1	Conservative	303
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	245	Labour	2
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	33		

Transition

An Opposition frontbench amendment also raised matters relating to transition. Amendment 278 proposed that exit day “must not be before the end of any transitional period agreed under Article 50”. This amendment was also lost (Division 37) with 295 in favour and 316 against.

Division 37: Listing by Party

AYES	295	NOES	316
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Conservative	1	Conservative	303
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	241	Labour	2
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

1.2 Day 2: 15 November 2017

Retained EU law

Protection of certain rights

The Labour frontbench proposed New Clause 58 which sought to protect certain rights. Speaking to the clause Matthew Pennycook (Lab) stated that its purpose was: “to ensure that retained EU law, as preserved in clauses 2 to 4, in five key areas—employment, equality, health and safety, consumer and environment—is accorded a level of enhanced protection that it would otherwise not enjoy from delegated powers contained in Acts of Parliament other than the one before us today.”³

The House divided on the New Clause (Division 39) with 299 in favour and 311 against.

Division 39: Listing by Party			
AYES	299	NOES	311
Conservative	1	Conservative	300
Green Party	1	Democratic Unionist Party	9
Independent	2	Independent	2
Labour	244		
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	35		

New Clause 25, like New Clause 58, sought the prevention of modification of retained EU law by primary legislation or by subordinate legislation made under this Act. The New Clause, tabled by Kerry McCarthy (Lab), would have provided a mechanism for Ministers to establish a list of technical provisions of retained EU law that may be amended by subordinate legislation outside the time restrictions of the Bill.

New Clause 25 was defeated with 295 in favour and 311 against (Division 38).

³ HC Deb 15 November 2017 c394

Division 38: Listing by Party

AYES	295	NOES	311
Conservative	1	Conservative	299
Green Party	1	Democratic Unionist Party	10
Independent	2	Independent	1
Labour	241		
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	34		

Animal sentience

Caroline Lucas (Green) moved New Clause 30 which sought to transfer the EU Treaty Article on animal sentience (Article 13 of Title II TFEU) into UK law, "so that animals continue to be recognised as sentient beings under domestic law". The New Clause was lost on division (Division 40) by 295 to 313.

Division 40: Listing by Party

AYES	295	NOES	313
Green Party	1	Conservative	303
Independent	2	Democratic Unionist Party	9
Labour	244	Independent	1
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	33		

A Labour frontbench amendment, New Clause 67, which sought to ensure that environmental principles under Article 191 of the Treaty on the Functioning of the European Union (TFEU) would continue to apply in the UK after exit day was defeated 297-313 (Division 41).

The Minister had stated that the amendment was not necessary because the Bill would convert the existing body of EU environmental law into UK law "making sure the same protections are in place in the UK and that laws still function effectively after exit".⁴

Division 41: Listing by Party

AYES	297	NOES	313
Green Party	1	Conservative	303
Independent	2	Democratic Unionist Party	9
Labour	243	Independent	1
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	35		

⁴ HC Deb 15 November 2017 c500

An SNP amendment, Amendment 70, which listed directly effective rights contained in the TFEU to be transferred into UK law, was defeated 48-313. Speaking against the amendment, the Minister said that although the sentiment behind the amendment was “laudable” it was “unnecessary for the protection of rights”.

Division 42: Listing by Party

AYES	48	NOES	313
Green Party	1	Conservative	303
Liberal Democrats	10	Democratic Unionist Party	9
Plaid Cymru	4	Independent	1
Scottish National Party	33		

1.3 Day 3: 21 November 2017

Exceptions to retained EU law

Charter of Fundamental Rights

The Committee of the Whole House debated a number of amendments that focused on the Charter of Fundamental Rights, including by removing the relevant clause from the Bill or by introducing new protections for the certain rights.

The Opposition Front Bench tabled an amendment that would have kept the Charter in retained EU law (Amendment 46).

The House divided on this Opposition amendment (Division 45), which was defeated with 301 in favour and 311 against.

Division 45: Listing by Party

AYES	301	NOES	311
Conservative	1	Conservative	299
Green Party	1	Democratic Unionist Party	10
Independent	2	Independent	2
Labour	245		
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	35		

Retained EU law until the end of the transitional arrangements

Paul Blomfield (Lab) spoke to amendment 336. This amendment would retain the existing principles of EU law within domestic law whether they originate in the case law of the European Court, the EU treaties, direct EU legislation or EU directives. The freeze date would be at the end of any transitional arrangements.

The House divided on this Opposition amendment (Division 46), which was defeated with 296 in favour and 315 against.

Division 46: Listing by Party

AYES	296	NOES	315
Conservative	1	Conservative	300
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	3
Labour	241	Labour	2
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	35		

Francovich

The *Francovich* rule allows individuals, under certain conditions, the possibility of obtaining compensation for directives whose transposition is poor, delayed or non-existent. Mary Creagh's (Lab) amendment (Amendment 139), together with Amendments 140 and 141, would have ensured the *Francovich* rule would have continued to apply after exit day in respect of government failures before exit day to comply with EU obligations. This was defeated with 295 in favour and 315 against (Division 47).

Division 47: Listing by Party

AYES	295	NOES	315
Conservative	1	Conservative	299
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	3
Labour	241	Labour	3
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	35		

Schedule to the Bill

The question was put that the schedule (Schedule 1) be the first schedule to the Bill.

Division 48: Listing by Party

AYES	313	NOES	295
Conservative	301	Green Party	1
Democratic Unionist Party	10	Independent	1
Independent	2	Labour	242
		Liberal Democrats	12
		Plaid Cymru	4
		Scottish National Party	35

Family friendly employment rights and gender equality

An amendment tabled by Ellie Reeves (Lab) (New Clause 79) sought to ensure that the rights of workers and employees in the UK are no less favourable than they would have been had the UK remained a member of the EU or EEA. The new clause would have ensured that Parliament was informed of changes to EU and EEA provisions that might have amended UK laws around family-friendly employment rights and gender equality and their potential impact, as well as committing the Government to consider their implementation. The amendment was negated on division with 295 in favour and 314 against.

Division 44: Listing by Party

AYES	295	NOES	314
Green Party	1	Conservative	302
Independent	1	Democratic Unionist Party	10
Labour	242	Independent	2
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

1.4 Day 4: 4 December 2017

Devolution processes

Introduction

The devolution provisions in the Bill were debated on days 4 and 5 (4 and 6 December 2017). On 4 December the House debated new clauses and amendments to Clause 11 and Schedule 3. Clause 11 concerns the legislative competencies of the devolved legislatures and Schedule 3 concerns executive competences and consequential amendments.

No amendments were made on Day 4 and Clause 11 and Schedule 3 were agreed to stand part of the Bill in a single division (Division 56) with 315 in favour and 290 against.

Division 56: Listing by Party

AYES	315	NOES	290
Conservative	304	Green Party	1
Democratic Unionist Party	10	Independent	1
Independent	1	Labour	241
		Liberal Democrats	10
		Plaid Cymru	4
		Scottish National Party	33

UK wide frameworks

The lead amendment debated on 4 December was an Opposition amendment (New Clause 64) which would have established a collaborative procedure for the creation of UK-wide frameworks under the Bill. It would have required the Secretary of State to “lay before each House proposals for replacing European frameworks with UK ones”.

The Opposition amendment (Amendment 64) on common frameworks was negated on division by 256-313 (Division 53).

Division 53: Listing by Party

AYES	256	NOES	313
Green Party	1	Conservative	302
Independent	1	Democratic Unionist Party	10
Labour	240	Independent	1
Liberal Democrats	10		
Plaid Cymru	4		

Competencies

A further Opposition amendment (Amendment 42) on consent which would have removed the Bill’s proposed restrictions on the ability of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly to legislate on devolved matters was lost on division with 292 in favour and 316 against (Division 54).

Division 54: Listing by Party

AYES	292	NOES	316
Green Party	1	Conservative	305
Independent	1	Democratic Unionist Party	10
Labour	240	Independent	1
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	34		

Devolved legislatures’ consent

Ian Blackford, speaking for the SNP, described clause 11 as a “bare, naked power grab and it completely undermines the devolution settlements across the United Kingdom”. He noted that “there is a long way to go on this Bill and, as it stands, the Scottish National Party cannot support it”.⁵ He described Amendment 72, as seeking to ensure that “all the devolved Administrations have a vote on approving clause 11 before it comes into effect”.

The Minister, Chris Skidmore, stated that the Government did not see the need for the amendment as the Sewel convention had already been

⁵ HC Deb 4 December 2017 c718

recognised in the *Scotland Act 2016* and the *Wales Act 2017*; and that “the Government was committed to the devolution settlements and the conventions we have established”.⁶

The House divided on this amendment with 290 in favour and 316 against (Division 55).

Division 55: Listing by Party

AYES	290	NOES	316
Green Party	1	Conservative	305
Independent	1	Democratic Unionist Party	10
Labour	242	Independent	1
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	32		

1.5 Day 5: 6 December 2017

Devolution processes

Powers delegated to Scottish Ministers

Stephen Gethins (SNP) spoke to amendments suggested by the Scottish and Welsh Governments. He stated that:

Amendments 166 and 167 were put together by the Scottish and Welsh Governments, and confer further powers to legislate and give Scottish Ministers the ability to make their own amendments to the directly applicable EU law...

...Amendment 167 gives Scottish Ministers the ability to make a different change in Scotland, where Scotland’s circumstances require it.⁷

The House divided (Division 57) on one of these amendments (amendment 167). The amendment was lost with 296 in favour and 316 against.

Division 57: Listing by Party

AYES	296	NOES	316
Green Party	1	Conservative	303
Independent	2	Democratic Unionist Party	10
Labour	245	Independent	2
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	32		

⁶ HC Deb 4 December 2017 c824

⁷ HC Deb 6 December 2017 c1074

Financial provisions

Approval of the financial settlement by the House of Commons

Chris Leslie (Lab)'s New Clause 17 sought to ensure that the financial provisions would not allow the Government to make a payment in settlement of the UK's withdrawal from the EU unless it had been expressly approved by the House of Commons. This was negated on division with 288 in favour and 316 against (Division 58).

Division 58: Listing by Party

AYES	288	NOES	316
Green Party	1	Conservative	303
Independent	1	Democratic Unionist Party	10
Labour	241	Independent	1
Liberal Democrats	11	Labour	2
Plaid Cymru	4		
Scottish National Party	30		

An Opposition new clause (New Clause 80) which sought to ensure that any financial settlement must be transparent and approved by Parliament was also defeated with 287 in favour and 312 against (Division 59).

The Minister, Steve Baker, had argued that:

New Clause 17 and amendment 54 show an understandable desire to protect the role of this House, but they are not necessary. The Government have always been clear that the negotiated financial settlement will be part of our withdrawal agreement and that the House will be given a vote on that agreement. My hon. Friend the Secretary of State for Exiting the European Union was very clear on 13 November when he announced the withdrawal and implementation Bill. He said that, as one of the principle elements of our agreement with the EU, we expect that legislation to include authorisation to pay any financial settlement that is negotiated with the EU. The Bill we are debating today is about ensuring that the statute book is operational on exit day, not about paying any settlement. The same argument applies to new clause 80.⁸

Division 59: Listing by Party

AYES	287	NOES	312
Green Party	1	Conservative	301
Independent	1	Democratic Unionist Party	10
Labour	239	Independent	1
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	31		

⁸ HC Deb 6 December 2017 c1160

Fees and charges levied via tertiary legislation

A Labour amendment (Amendment 339) to remove the power of public authorities to levy fees or charges via tertiary legislation under the powers in the Bill was defeated 286-311 (Division 60).

Division 60: Listing by Party

AYES	286	NOES	311
Green Party	1	Conservative	300
Independent	1	Democratic Unionist Party	10
Labour	238	Independent	1
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	31		

1.6 Day 6: 12 December 2017**The 'Correcting power'**

The Day 6 debate covered clause 7 of the Bill, which contains what is known as the "correcting power": a power to make regulations in order to prevent, remedy or mitigate any "failure of" or "deficiency in" retained EU law. The Day 6 debate also considered Schedule 7 which sets out the scrutiny arrangements for secondary legislation made under the powers in the Bill (the votes on Schedule 7 were held on day 7).

Use of delegated powers

The House divided on Yvette Cooper's amendment (Amendment 49), which would have introduced a "necessity" test to the use of the delegated power. As currently drafted, the power can be used when Ministers considers it "appropriate" to mitigate prevent or remedy deficiencies. Her amendment would have meant that the powers would only be used when they were needed to "adapt the body of EU law to fit the UK's domestic legal framework".

The Committee divided (Division 64) on Amendment 49 with 295 in favour and 312 against.

Division 64: Listing by Party

AYES	295	NOES	312
Conservative	3	Conservative	301
Green Party	1	Democratic Unionist Party	10
Independent	2	Independent	1
Labour	242		
Liberal Democrats	12		
Plaid Cymru	3		
Scottish National Party	32		

Devolution statutes

The Committee divided on Amendment 158, tabled by Stephen Doughty (Labour) with support from the SNP and Plaid Cymru. The amendment would have prevented the powers of a Minister of the Crown under Clause 7 of the Bill to fix problems in retained EU law from being exercised to amend the *Scotland Act 1998* or the *Government of Wales Act 2006*. The Amendment was lost with 291 in favour and 315 against (Division 66).

Division 66: Listing by Party

AYES	291	NOES	315
Green Party	1	Conservative	304
Independent	2	Democratic Unionist Party	10
Labour	241	Independent	1
Liberal Democrats	12		
Plaid Cymru	3		
Scottish National Party	32		

Single Market

Tom Brake (Lib Dem) spoke to Amendment 124 on the Single Market. The amendment was intended to prevent the regulation-making powers being used to create barriers to the UK's continued membership of the Single Market. In response, the Minister stated that it was not the Government's policy to remain in the Single Market and the customs union.⁹ The Committee divided (Division 65) on Amendment 124 with 93 in favour and 215 against.

Division 65: Listing by Party

AYES	93	NOES	315
Conservative	2	Conservative	302
Green Party	1	Democratic Unionist Party	10
Labour	44	Independent	2
Liberal Democrats	10	Labour	1
Plaid Cymru	3		
Scottish National Party	33		

Protection for environmental standards

The Committee divided on New Clause 63 on environmental standards and protections. The New Clause, tabled by the Opposition, would have required the Government to establish new domestic governance arrangements following the UK's exit from the EU for environmental standards and protections, following consultation. The New Clause was rejected with 293 in favour and 315 against (Division 63).

⁹ HC Deb 12 December 2017 c299

Division 63: Listing by Party

AYES	293	NOES	315
Green Party	1	Conservative	304
Independent	2	Democratic Unionist Party	10
Labour	242	Independent	1
Liberal Democrats	12		
Plaid Cymru	3		
Scottish National Party	33		

Protection of rights

The Committee also divided on Amendment 25 which would have prevented the Government from using delegated powers under Clause 7 to reduce protections currently conferred upon individuals, groups or the natural environment, or to repeal or revoke the *Equality Act 2010* or any subordinate legislation made under that Act. The Amendment, tabled by the Opposition, was lost with 292 in favour and 314 against (Division 67).

Division 67: Listing by Party

AYES	292	NOES	314
Conservative	1	Conservative	303
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	241		
Liberal Democrats	12		
Plaid Cymru	3		
Scottish National Party	33		

1.7 Day 7: 13 December 2017**Implementation****A new statute required before powers under clause 9 are used**

Day 7 saw the only Government defeat during the Committee Stage. Amendment 7, tabled by Dominic Grieve, to require a new statute to be in place before any regulations are made to implement the withdrawal agreement using powers under Clause 9, was passed by 309 in favour to 305 against (Division 68).

Division 68: Listing by Party

AYES	309	NOES	305
Conservative	12	Conservative	293
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	2

Labour	245
Liberal Democrats	12
Plaid Cymru	4
Scottish National Party	34

Amendment of the Act itself using powers within the Act

The Committee divided on Opposition Amendment 30 that would have removed the proposed capacity of Ministers to modify and amend the Act itself via delegated legislation. The Amendment was negated on division (Division 69) with 297 in favour and 316 against.

Division 69: Listing by Party

AYES	297	NOES	316
Conservative	1	Conservative	305
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	244		
Liberal Democrats	12		
Plaid Cymru	4		
Scottish National Party	34		

Reciprocal healthcare arrangements

The Committee divided on Amendment 241 which was tabled by Dr Edith Whiteford (SNP), which would have required the Secretary of State to publish a strategy for seeking to ensure that reciprocal healthcare arrangements continue after the UK leaves the EU. The amendment was negated on division (Division 70) with 294 in favour and 315 against.

Division 70: Listing by Party

AYES	294	NOES	315
Green Party	1	Conservative	304
Independent	1	Democratic Unionist Party	10
Labour	245	Independent	1
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	32		

Scrutiny committee

The Committee divided on New Clause 1 which was an Opposition amendment to establish the principle that there would be a Commons triage committee to work alongside the Lords Secondary Legislation Scrutiny Committee to determine the level of scrutiny each statutory instrument would receive. The New Clause was defeated with 292 in favour and 311 against (Division 71).

Division 71: Listing by Party

AYES	292	NOES	311
Green Party	1	Conservative	301
Independent	1	Democratic Unionist Party	10
Labour	242		
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	34		

International obligations**Introduction**

The second half of the debate on day 7 was on Clause 8 of the Bill. Clause 8 gives Government the power, until two years after exit day, to make secondary legislation to prevent or remedy any breaches of the UK's international obligations that might arise from Brexit.

The Committee divided on Amendment 26 which was an Opposition amendment to prevent the Government using delegated powers under Clause 8 to reduce rights or protections. The amendment was negated on division (Division 73) with 291 in favour and 315 against.

Division 73: Listing by Party

AYES	291	NOES	315
Green Party	1	Conservative	304
Independent	1	Democratic Unionist Party	10
Labour	242	Independent	1
Liberal Democrats	9		
Plaid Cymru	4		
Scottish National Party	34		

EEA agreement

A new clause moved by Heidi Alexander (Lab) to prevent the Government from using the powers to withdraw from the European Economic Area (EEA) (New Clause 22) was lost on division with 292 in favour and 314 against.

Division 72: Listing by Party

AYES	292	NOES	314
Green Party	1	Conservative	304
Independent	1	Democratic Unionist Party	10
Labour	242	Independent	1
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	34		

1.8 Day 8: 20 December 2017

Debate on Day 8 was again split in two with the first half of the day spent on Clause 13 and Schedule 5 on publication and rules of evidence. No divisions took place on amendments to the Clause or Schedule, or on related new clauses. Clause 13 was ordered to stand part without division.

'Exit day', transition and implementation

Introduction

The remainder of the debate on Day 8 covered Clause 14, Schedule 6; Clause 15 and Schedules 8 and 9; and Clauses 18 and 19. Debate covered matters relating to exit day. The Government amendments to fix exit day were agreed to, along with Government supported amendments tabled by Oliver Letwin which allowed the day to be changed if the withdrawal agreement provides that the UK will leave on a date different from that set out in Clause 14. These Amendments (381 and 399-405) were agreed on a single division (Division 82) with 319 in favour and 294 against.

Division 82: Listing by Party

AYES	319	NOES	294
Conservative	306	Green Party	1
Democratic Unionist Party	10	Independent	1
Independent	1	Labour	244
Labour	2	Liberal Democrats	11
		Plaid Cymru	4
		Scottish National Party	33

Customs Duties

Chris Leslie (Lab) tabled New Clause 13 which would have ensured that "we do not get past exit day without new legislation that allows the UK the option to remain a member of the customs union".¹⁰

The amendment was negatived on division (Division 81) with 114 in favour and 320 against.

Division 81: Listing by Party

AYES	114	NOES	320
Conservative	2	Conservative	306
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	1
Labour	62	Labour	3
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	33		

¹⁰ HC Deb 20 December 2017 c1130

Criminal offences

Opposition Amendment 349 which would have prevented Statutory Instruments creating criminal offences under the Bill was defeated with 295 in favour and 318 against (Division 83). Paul Blomfield stated that the purpose of the amendment was to “seek clarification” from the Government “that they do not intend to use delegated powers to create criminal offenses of a seriousness that carry custodial sentences”.¹¹

Division 83: Listing by Party

AYES	295	NOES	318
Green Party	1	Conservative	308
Independent	2	Democratic Unionist Party	10
Labour	244		
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	32		

Transitional arrangements

Kenneth Clarke (Con) spoke to New Clause 54, which would have put into law the commitment that the Prime Minister made in her Florence speech to a transitional arrangement. The New Clause was lost on division with 296 in favour and 316 against (Division 85).

Division 85: Listing by Party

AYES	296	NOES	316
Conservative	2	Conservative	305
Green Party	1	Democratic Unionist Party	10
Independent	1		
Labour	244		
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	32		

Health and Social Care

Joanna Cherry (SNP) tabled New Clause 44, which would have required the UK Government to make arrangements for an independent evaluation of the impact of legislation on the health and social care sector. The amendment was lost with 294 in favour and 318 against (Division 84).

Division 84: Listing by Party

AYES	294	NOES	318
Green Party	1	Conservative	308

¹¹ *Ibid* c1143

Independent	2	Democratic Unionist Party	10
Labour	244		
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	31		

Referendum

Amendment 120 tabled by Tom Brake (Lib Dem) would have required that before 29 March 2019, or the end of any extension to the two year negotiation period, a referendum on the terms of the deal would have to be held. The amendment was lost with 23 in favour and 319 against (Division 86).

Division 86: Listing by Party

AYES	23	NOES	319
Green Party	1	Conservative	307
Labour	9	Democratic Unionist Party	10
Liberal Democrats	9	Independent	1
Plaid Cymru	4	Labour	2

2. Commons Report Stage

2.1 Day 1: 16 January 2018

A number of government amendments were made at report stage. Divisions took place on several non-government amendments and new clauses, all of which were defeated.

Although the Government had given a commitment at committee stage that it would table amendments to Clause 11 on devolution at report stage, it did not do so; this was a subject of significant comment during Report Stage.

Saving Environmental Rights and Obligations

Kerry McCarthy (Lab) moved amendment 57, which would have removed clause 4 from the Bill. She intended that clause 4 would be replaced by her new clause 19, which contained a broader definition of EU rights to be saved. She argued that the restrictions in clause 4, which would mean that rights that had not been recognised by a court before exit day would not be saved, were “inexplicable and unnecessary” and could mean that some EU environmental law would not be saved. She gave some examples of EU law provisions that might be lost as they had not been transposed into UK law, such as the requirement for water pricing policies to incentivise efficient water use and energy performance requirements for publicly owned buildings. She argued

that the Bill needed to be amended to match the Government’s stated intentions for a “green Brexit”.

The amendment was lost with 299 in favour and 319 against (Division 91).

Division 91: Listing by Party			
AYES	299	NOES	319
Green Party	1	Conservative	307
Independent	2	Democratic Unionist Party	9
Labour	243	Independent	1
Liberal Democrats	11	Labour	2
Plaid Cymru	4		
Scottish National Party	35		

Charter of Fundamental Rights

Paul Blomfield (Lab) spoke to amendment 4 which sought to ensure that the Charter would continue to apply to retained EU law, and sought to give the Charter rights the same level of protection as the rights in the Human Rights Act 1998.

The Amendment was negated on division (Division 92) with 299 in favour and 317 against.

Division 92: Listing by Party			
AYES	299	NOES	317
Conservative	1	Conservative	307
Green Party	1	Democratic Unionist Party	9
Independent	3	Independent	1
Labour	244		
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

Animal Sentience

Article 13 of the Treaty on the Functioning of the European Union (TFEU) states that, “since animals are sentient beings”, the EU and member states must “pay full regard to the welfare requirements of animals” when “formulating and developing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies”¹². This Treaty provision would not be carried into domestic law by the EUW Bill. Existing domestic legislation on animal welfare does not explicitly recognise that animals are sentient.

¹² European Union, [Treaty on the Functioning of the European Union \(Consolidated version 2016\)](#).

Caroline Lucas (Green) spoke to new clause 7 at report stage, which would transfer the EU Protocol on animal sentience set out in Article 13 of Title II of the 2009 Lisbon Treaty into UK law, so that the obligation on the Government and the devolved administrations to pay due regard to the welfare requirements of animals as sentient beings when formulating law and policy is not lost when the UK leaves the EU.

The House divided on this amendment (Division 93), which was defeated with 297 in favour and 320 against.

Division 93: Listing by Party

AYES	297	NOES	320
Green Party	1	Conservative	307
Independent	3	Democratic Unionist Party	10
Labour	246	Independent	1
Liberal Democrats	10	Labour	2
Plaid Cymru	4		
Scottish National Party	34		

Requirement for Devolved Authorities to Consult

As the Bill was considered at report stage in the House of Commons, paragraph 5 of schedule 2 required devolved authorities to obtain the consent of a Minister of the Crown before making regulations under part 1. This applied when a devolved authority was acting alone so far as the regulations would come into force before exit day, or remove (whether wholly or partly) reciprocal arrangements of the kind mentioned in clause 7(2)(c) or (e).

Government amendment 26 removed the requirement to obtain the consent of a Minister of the Crown, but amendment 27 added a requirement for devolved authorities to consult with the Secretary of State.

Speaking to the amendments at report, David Lidington explained that they were being made in response to a similar amendment proposed at committee. He stated that the amendments achieved:

[T]he same effect as committee amendment 169, which was proposed by the Scottish and Welsh governments and tabled in the name of the hon. Member for Cardiff South and Penarth [Stephen Doughty, Labour]. Having discussed the matter with those administrations and having listened to the debate in committee, we have agreed to accept that proposal, with the addition of extending the change to the power by conferring it on the Northern Ireland Executive.¹³

Mr Lidington explained that whilst using the conferred power, it was important that no action was taken that would inadvertently place the UK in breach of EU law whilst it was still a member state, or that would prejudice or pre-empt withdrawal negotiations. However, the

¹³ HC Deb 16 January 2018 cc835-6

Government believed the requirement to consult with the Secretary of State was a sufficient safeguard against these issues.

Government amendments 21, 22, 23, 24 were consequential on government amendment 15. Government amendments 21 to 29 were considered and voted on as a group, being agreed to on division by 317 votes to 297 (Division 94).

Division 94: Listing by Party			
AYES	317	NOES	297
Conservative	307	Green Party	1
Democratic Unionist Party	10	Independent	3
Independent	1	Labour	247
		Liberal Democrats	9
		Plaid Cymru	4
		Scottish National Party	33

Competence of Devolved Legislatures and Agreement on Frameworks

Jenny Chapman (Lab)'s amendment (Amendment 3) would have removed the Bill's proposed restrictions on the ability of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly to legislate on devolved matters and to create new collaborative procedures for the creation of UK-wide frameworks for retained EU law. The amendment was lost with 297 in favour and 321 against (Division 95).

Division 95: Listing by Party			
AYES	297	NOES	321
Green Party	1	Conservative	307
Independent	2	Democratic Unionist Party	10
Labour	245	Independent	1
Liberal Democrats	10	Labour	3
Plaid Cymru	4		
Scottish National Party	35		

2.2 Day 2: 17 January 2018

Retaining Enhanced Protection for Rights in Retained EU Law

Labour's New Clause 1 sought to place restrictions on how ministers could make changes to retained EU law using regulation-making powers contained in other Acts.

First, retained EU law could be amended, repealed or modified using delegated powers under other Acts only if it was necessary to maintain or enhance rights and protections.

Second, if the power was being used to make changes to retained EU law in specified policy areas—employment entitlement, rights and protection; equality entitlements, rights and protection; health and safety entitlement, rights and protection; consumer standards; or environmental standards and protection—then a special procedure would have applied. This would have required an explanatory statement from the Minister as to why the regulation was necessary; a statutory consultation period; and the use of the affirmative procedure in Parliament.

The amendment was defeated with 305 in favour and 318 against (Division 96).

Division 96: Listing by Party

AYES	305	NOES	318
Conservative	1	Conservative	306
Green Party	1	Democratic Unionist Party	10
Independent	4	Independent	1
Labour	250		
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	35		

Legal Advice on Altering Article 50 Notification

Chris Leslie (Lab) tabled New Clause 6, which would have required the Government to publish a summary of the legal advice it had received about whether the withdrawal notification made under Article 50 could be extended, altered or revoked.

The House divided (Division 97) on this New Clause, which was defeated with 298 in favour and 322 against.

Division 97: Listing by Party

AYES	298	NOES	322
Green Party	1	Conservative	308
Independent	4	Democratic Unionist Party	10
Labour	244	Labour	3
Liberal Democrats	10		
Plaid Cymru	4		
Scottish National Party	35		

'Meaningful Vote on Deal or No Deal'

Tom Brake (Lib Dem) spoke to New Clause 11 which would have required the Government to publish an economic impact assessment for any deal reached under Article 50, or—if no deal was reached—on the economic impact of leaving the EU without a deal. If by the end of January 2019, the House of Commons had neither approved a deal, nor

approved the UK leaving without a deal, then New Clause 11 would have required the Government to continue trying to negotiate a deal in the remaining time; to request an extension of the Article 50 negotiating period; or to rescind the notification of the UK's intention to leave the EU.

New Clause 11 was defeated with 301 in favour and 320 against (Division 98).

Division 98: Listing by Party			
AYES	301	NOES	320
Conservative	2	Conservative	306
Green Party	1	Democratic Unionist Party	10
Independent	3	Independent	1
Labour	247	Labour	3
Liberal Democrats	9		
Plaid Cymru	4		
Scottish National Party	35		

Environmental Protection

Mary Creagh (Lab) spoke to New Clause 12, which would have required the Government to publish a report detailing any loss of environmental protection, or monitoring or enforcement of environmental protections, as a result of Brexit. The Government would also have been required to publish a draft Environmental Protection Bill before exit day and to establish a new Environmental Protection Agency to monitor environmental targets.

The New Clause was negated on division (Division 99) with 301 in favour and 318 against.

Division 99: Listing by Party			
AYES	301	NOES	318
Green Party	1	Conservative	307
Independent	4	Democratic Unionist Party	10
Labour	246	Independent	1
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

Effect of Losing Access to Single Market and Customs Union

Ian Murray (Lab) proposed new clause 17 which would have required the Government to publish an economic impact assessment comparing any agreement reached with the EU under Article 50 with the UK's continued participation in the EU single market and customs union. No statute approving a withdrawal deal could have come into force until

the economic assessment had been approved by the House of Commons.

New Clause 17 was defeated with 301 in favour and 320 against (Division 100).

Division 100: Listing by Party

AYES	301	NOES	320
Conservative	2	Conservative	306
Green Party	1	Democratic Unionist Party	10
Independent	3	Independent	1
Labour	246	Labour	3
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	34		

Restricting the Correcting Power

The Labour frontbench proposed amendment 2 which sought to place further restrictions on the way the 'correcting' power could be used. The amendment would restrict the Clause 7 powers so as to ensure they are only used as far as necessary for the purposes of the Bill, that they do not abolish enforcement functions and that they do not reduce rights or protections

The House divided (Division 101) on this amendment, which was defeated with 302 in favour and 318 against.

Division 101: Listing by Party

AYES	302	NOES	318
Conservative	1	Conservative	306
Green Party	1	Democratic Unionist Party	10
Independent	4	Independent	1
Labour	246		
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

Permanent Membership of Single Market and Customs Union

Peter Grant (SNP) spoke to amendment 59, which would have prevented the Government making regulations under clause 9 to implement a withdrawal agreement unless it had signed an agreement with the EU guaranteeing the UK would remain a permanent member of the single market and the customs union.

The amendment was lost with 99 in favour and 322 against (Division 102).

Division 102: Listing by Party

AYES	99	NOES	322
Conservative	1	Conservative	307
Green Party	1	Democratic Unionist Party	10
Independent	1	Independent	2
Labour	48	Labour	3
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	33		

Exit Day and Transition

The Labour frontbench proposed amendment 1 would have given ministers the power to amend the date of exit day after the Bill had received royal assent “to ensure that the day and time specified are in accordance with any transitional arrangements agreed under Article 50”. The amendment would “ensure that the Bill can facilitate transitional arrangements within the single market and customs union.”

The House divided (Division 103) on this amendment, which was defeated with 302 in favour and 321 against.

Division 103: Listing by Party

AYES	302	NOES	321
Conservative	1	Conservative	307
Green Party	1	Democratic Unionist Party	10
Independent	3	Independent	1
Labour	247	Labour	3
Liberal Democrats	11		
Plaid Cymru	4		
Scottish National Party	35		

3. Commons Third Reading

3.1 17 January 2018

At the Bill’s third reading the Secretary of State for Exiting the European Union, David Davis, summarised the Bill’s purpose as ensuring that the UK has a functioning statute book when the country withdraws from the EU:

The Bill is essential to preparing the country for the historic milestone of withdrawing from the European Union. It ensures that on day one we will have a statute book that works, with this Government delivering the smooth and orderly exit desired by people and businesses across the United Kingdom. It is a complex piece of legislation, which is unsurprising given that it seeks to put into British law the entire *acquis* of European law—established

over 40 years or more of membership—and to do so in a few years while active negotiations are going on.¹⁴

Responding for the Opposition, the Shadow Secretary of State for Exiting the European Union, Keir Starmer, took a different view of the Bill and said that Labour would be voting against giving the Bill a Third Reading.

SNP amendment

The SNP tabled an amendment to the motion to give the Bill a third reading. This would have declined to pass the Bill, citing clause 11 and arguing that the Bill was not fit for purpose because:

[I]t undermines the fundamental principles of the Scotland Act 1998 by reserving to the UK Parliament powers that would otherwise be devolved to the Scottish Parliament on the UK leaving the European Union.¹⁵

The SNP's amendment was defeated on division (Division 104), with 295 votes in favour and 322 against.

Division 104: Listing by Party

AYES	295	NOES	322
Green Party	1	Conservative	307
Independent	3	Democratic Unionist Party	10
Labour	243	Independent	1
Liberal Democrats	11	Labour	3
Plaid Cymru	4		
Scottish National Party	33		

Third Reading

The *European Union (Withdrawal) Bill* was passed at Third Reading by 324 votes to 295.

Division 105: Listing by Party

AYES	324	NOES	295
Conservative	308	Green Party	1
Democratic Unionist Party	10	Independent	3
Independent	2	Labour	241
Labour	4	Liberal Democrats	11
		Plaid Cymru	4
		Scottish National Party	35

¹⁴ HC Deb 17 December 2018 c1002-3

¹⁵ *Ibid* c1008

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