The Scottish Parliament
Pàrlamaid na h-Alba

SPICe The Information Centre
An t-Ionad Fiosrachaidh

SPICe Briefing
Pàipear-ullachaidh SPICe

UK Supreme Court ruling on the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill

Iain McIver and Angus Evans

This short briefing provides information on the Supreme Court's ruling on the legislative competence of the Scottish Parliament's UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill

18 December 2018
SB 18-88

Contents

Context

In advance of the UK leaving the EU at the end of March 2019, preparations are being made to ensure that UK and Scots Law continue to operate properly after exit day.

To facilitate the UK's departure from the EU, the UK Government introduced the European Union (Withdrawal) Bill [1] on 13 July 2017.

The Scottish and UK Governments disagreed over provisions within the Withdrawal Bill which relate to where powers returning from the European Union after Brexit day will sit. The Scottish Government argued that those powers relating to devolved matters should be returned to Scotland. The UK Government, on the other hand,proposed that, initially, these powers should be retained at a UK level whilst discussion over and the organisation of UK-wide common frameworks took place.

During the consideration of the Bill in the UK Parliament, amendments relating to this issue supported by the Scottish Government were defeated at the Committee stage. Subsequently, the Scottish Government introduced the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill [2] in the Scottish Parliament on 27 February 2018.

At the time of introduction, the Scottish Government set out its intention that the Continuity Bill should complete its parliamentary passage and become law before the Withdrawal Bill did.

The Scottish Government, therefore, asked the Scottish Parliament to agree to designate the Bill as an Emergency Bill. The Minister for UK Negotiations on Scotland's Place in Europe explained the reason for this approach to the Parliament on 1 March 2018:

> " It is essential that the continuity bills in Wales and Scotland become law before the withdrawal bill does. In the absence of an agreement about a common UK approach, and in defence of devolution, this Parliament must prepare itself to assert—if it has to—the right to legislate on the consequences for devolution of withdrawal from the EU. To do so, we must put in place the necessary safeguards and stopgaps, and our continuity bill is at the heart of that process. Without it, we will be defenceless and our negotiating position as a Government will be severely weakened. We must not only have options and choices; we must be seen to have options and choices. I hope that all parties in the Parliament will back the position that I am laying out, so that there is a united Scottish voice."
>
> Scottish Parliament Official Report, 2018[3]

On 21 March 2018, the Scottish Parliament passed the Continuity Bill [4] . Section 32 of the Scotland Act 1998 (Scotland Act) [5] provides that a Bill, once passed, may be submitted for Royal Assent by the Presiding Officer after a period of four weeks. Section 33(1) provides that during this four week period, questions about the competence of the Bill or any provision within it can be referred to the UK Supreme Court for a decision. Such a referral can be made by the Advocate General for Scotland, the Lord Advocate or the Attorney General.

In the four-week period following the passing of the Continuity Bill, the Attorney General and the Advocate General for Scotland referred the Bill to the Supreme Court for a ruling on whether the Bill was within the Scottish Parliament's legislative competence.

Once the reference was made, the Bill could not be submitted for Royal Assent until the Supreme Court had decided the reference or until the reference was withdrawn (NB: this happened in the case of the Welsh Assembly's Continuity Bill allowing it to receive Royal Assent before it was then repealed).

The Supreme Court Judgment

The Supreme Court was asked to consider whether the Continuity Bill is within the legislative competence of the Scottish Parliament.

This included considering the extent to which the Continuity Bill would modify the European Union (Withdrawal) Act 2018 which had received Royal Assent in June 2018, after the Continuity Bill had completed its passage through the Scottish Parliament.

The UK Supreme Court (the Court) heard the case on 24 and 25 July. The Supreme Court Justices who heard the case (Lady Hale, Lord Reed, Lord Kerr, Lord Sumption, Lord Carnwath, Lord Hodge, Lord Lloyd-Jones) handed down their unanimous judgement on 13 December.

The Court considered that three principal restrictions on the devolved competence of the Scottish Parliament were relevant to the case:

- A provision is outside competence if it is incompatible with EU law (section 29(2)(d)) of the Scotland Act
- A provision is outside competence if it relates to reserved matters (section 29(2)(b) and (3)). Reserved matters (listed in Schedule 5) include foreign affairs including relations with the EU
- A provision is outside competence if it is in breach of the restrictions of Schedule 4 (section 29(2)(c)). Schedule 4 lists enactments and rules of law which are protected from modification by an Act of the Scottish Parliament or by subordinate legislation created on its authority.

The Court's judgment [6] sought to answer six questions. Each of these is summarised below.

Whether the Scottish Bill as a whole is outside the legislative competence of the Scottish Parliament because it relates to the reserved matter of relations with the EU

Section 29 of the Scotland Act sets out the limits on legislative competence of Acts of the Scottish Parliament. Section (29)(2) sets out six ways in which an Act of the Scottish Parliament would be outwith competence. For the purposes of answering this particular question, the Supreme Court considered section 29(2)(b) which states an Act of the Scottish Parliament is outside competence if it relates to reserved matters, in this case those of relations with the EU.

Reserved matters are listed under Schedule 5 of the Scotland Act. Paragraph 7 of Part 1 of Schedule 5 reserves international relations, including relations with the European Union (and their institutions). However, the observation and implementation of obligations under the EU treaties is excluded from the reservation and so is devolved.

The Court ruled that the Continuity Bill "is concerned with the purely domestic rules of law which after withdrawal from the EU will replace EU law. The fact that those domestic rules may be substantially the same as the rules which previously applied as a matter of EU law does not make them obligations under EU law. Their juridical source is purely domestic".

In addition, the Court ruled that the Continuity Bill "does not relate to relations with the EU" (which are reserved to the UK Parliament) as "it will take effect at a time when there will be no legal relations with the EU unless a further treaty is made with the EU". On this point the Court noted that:

> " The Bill does not purport to deal with any legal rule affecting the power of Ministers of the Crown to negotiate such a treaty or otherwise to conduct the UK's relations with the EU. It does not purport to affect the way in which current negotiations between the UK and the EU are conducted. It simply regulates the legal consequences in Scotland of the cessation of EU law as a source of domestic law relating to devolved matters, which will result from the withdrawal from the EU already authorised by the UK Parliament. This is something that the Scottish Parliament is competent to do, provided (i) that it does it consistently with the powers reserved in the Scotland Act to the UK Parliament, and with legislation and rules of law protected under Schedule 4, and (ii) that its legislation does not relate to other reserved matters."
>
> Supreme Court, 2018[6]

In the event a further treaty is made with the EU, the Court suggests that this is a matter which will have to be considered when any legislation implementing a future deal is proposed:

> " Different considerations may arise if and when further legislation is required to implement any agreement which Ministers of the Crown may negotiate with the EU governing the terms of withdrawal or the subsequent relations of the UK with the EU. But that is a matter which will have to be addressed when that legislation comes to be proposed."
>
> Supreme Court, 2018[6]

As a result, the Court decided that the Continuity Bill does not relate to a reserved matter – so the challenge to the whole Bill on this ground failed.

Whether Section 17 of the Scottish Bill is outside the legislative competence of the Scottish Parliament

Section 17 of the Continuity Bill would place a requirement on UK Ministers to seek Scottish Ministers' consent to UK secondary legislation which modifies retained EU law relating in part or in full to devolved matters. Section 17(2) provides that, where the consent of the Scottish Ministers is not given, such subordinate legislation is of no legal effect.

The Court considered section 17 from two angles.

First, whether section 17 of the Bill would modify section 28(7) of the Scotland Act which states that the Scottish Parliament's ability to legislate "does not affect the power of the

Parliament of the United Kingdom to make laws for Scotland". Modification of this section would be outside competence under section 29(2)(c) of the Scotland Act as it is one of the provisions listed in Schedule 4 which the Parliament cannot modify . The Court's judgment stated:

> " A provision which imposes a condition on the legal effect of laws made by the UK Parliament, in so far as they apply to Scotland, is in conflict with the continuation of its sovereign power to make laws for Scotland, and is therefore equivalent to the amendment of section 28(7) of the Scotland Act."
>
> Supreme Court, 2018[6]

Because the Court decided that section 17 of the Bill would modify section 28(7) of the Scotland Act, contrary to section 29(2)(c) and paragraph 4(1) of Schedule 4, it decided it was unnecessary to consider whether section 17 of the Bill would also breach the restriction in paragraph 4(1) of Schedule 4 by modifying section 63(1) of the Scotland Act.

The second question the Court considered was whether section 17 relates to the reserved matter of the constitution (in particular the UK Parliament – paragraph 1(c) of Schedule 5 to the Scotland Act). The Court recognised that sovereignty "is an attribute of Parliament which is relevant – indeed, fundamental - to the constitution".

However, the Court took the view that section 17 did not impinge on the sovereignty of the UK Parliament:

> " Section 17 does not purport to alter the fundamental constitutional principle that the Crown in Parliament is the ultimate source of authority; nor would it have that effect. Parliament would remain sovereign even if section 17 became law. It could amend, disapply or repeal section 17 whenever it chose, acting in accordance with its ordinary procedures."
>
> Supreme Court, 2018[6]

Overall, the Court concluded that section 17 of the Continuity Bill "would not be within the legislative competence of the Scottish Parliament because it would modify section 28(7) of the Scotland Act, contrary to section 29(2)(c)"

Whether Section 33 of and Schedule 1 to the Scottish Bill are outside the legislative competence of the Scottish Parliament

Section 33 of the Bill would repeal spent references to EU law in the Scotland Act 1998 following the UK's departure from the EU. Section 33 sets out amendments to the Scotland Act to remove references to the requirement to ensure Acts of the Scottish Parliament comply with EU law (section 29(2)(d) and to remove the rule that members of the Scottish Government cannot act incompatibly with EU law (section 57(2)). Schedule 1 of the Continuity Bill sets out a number of other repeals to references to EU law in the Scotland Act.

Section 29(2)(c) of the Scotland Act states that an Act of the Scottish Parliament is not law if it is in breach of the conditions set out in Schedule 4 to the Act. Paragraph 4(1) of Schedule 4 states that:

> “ An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, this Act.”
>
> Legislation.gov.uk, 1998[5]

But paragraph 7 of Schedule 4 provides that the repeal of spent enactments is excluded from the scope of 29(2)(c). The question at issue was whether these provisions could be considered “spent” prior to withdrawal from the EU.

On this question the Court concluded that section 33 of and schedule 1 of the Continuity Bill would become spent subject to “the contingency of UK withdrawal, which will occur on 29 March 2019 unless steps are taken …… to extend the period before the UK exits the EU.” Read in the context of the purpose of the Bill set out in section 1(1) and a narrow reading of the power to commence these provisions, the Scottish Ministers were able “to bring into force [the removal of the spent provisions] from the date when that contingency occurs.” Accordingly, as so restricted, these provisions did not breach section 29(2)(c) of and Schedule 4 to the Scotland Act.

However, the Court added that:

> “ this does not mean that those provisions of the Scottish Bill, if it were to receive Royal Assent, would be within the legislative competence of the Scottish Parliament. This is because we have yet to consider the application of section 29(2)(c) in the light of the enactment of the UK Withdrawal Act which, in paragraph 21(2)(b) of schedule 3, has amended Schedule 4 to the Scotland Act by adding the UK Withdrawal Act to the statutes which the Scottish Parliament cannot modify.”
>
> Supreme Court, 2018[6]

Whether various provisions of the Scottish Bill are outside competence because (i) they are incompatible with EU law, (ii) modify section 2(1) of the European Communities Act 1972, and/or (iii) are contrary to the rule of law or constitutional principle

The Continuity Bill introduces a number of provisions which the UK Government's Law Officers argued are not law because:

> “ they are incompatible with EU law and therefore outside the competence of the Scottish Parliament by virtue of section 29(2)(d) of the Scotland Act or because they entail a prohibited modification of section 2(1) of the European Communities Act 1972 (“the 1972 Act”), contrary to section 29(2)(c) of and Schedule 4 paragraph 1(2)(c) to the Scotland Act.”
>
> Supreme Court, 2018[6]

Section 29(2)(d) provides that it is outside competence to make provision which is incompatible with EU law. The Court was asked whether the postponement of the effect of

provisions until the Parliament was freed from the restriction of incompatibility as a result of withdrawal from the EU was sufficient to address the current competence restriction.

The Court considered section 1 of the Bill, which sets out withdrawal from the EU as the specific context for the Bill and suspends the legal effect of any incompatible provision, as critical to this question. In this particular context the Court concluded: “Absent such legal effect there is no incompatibility [with EU law].”

Similarly, the Court concluded that postponement of the legal effect of provisions which would anticipate the repeal of section 2(1) of the European Communities Act 1972 avoided modification of that Act contrary to the prohibition in Schedule 4; “Prospective legislative provision for the consequences of the repeal of the 1972 Act, which has no legal effect until such repeal, entails no modification of that Act.”

The Court also rejected the wider challenge that the Bill was contrary to the rule of law or constitutional principle:

> “ When the Scottish Parliament passed the Scottish Bill, the prospective removal of the restriction in section 29(2)(d) requiring its legislation to be compatible with EU law would enhance the legislative competence of the Scottish Parliament on 29 March 2019, unless supervening circumstances intervened. The Scottish Parliament has sought to provide for the continuity of Scots law on the UK withdrawal, by enacting provisions which can take effect only after that withdrawal thereby respecting the supremacy of EU law while it continues. That breaches no constitutional principle.”
>
> Supreme Court, 2018[6]

Whether this court can consider the effect of the UK Withdrawal Act in the context of this reference

After the Continuity Bill completed its passage through the Scottish Parliament, the European Union (Withdrawal) Act 2018 received Royal Assent. The Withdrawal Act made a number of amendments to the Scotland Act. Most significantly, the Withdrawal Act added itself to the list in schedule 4 of the Scotland Act of enactments which the Scottish Parliament does not have power to modify.

The Court concluded that it must consider the legislative competence of the Continuity Bill based on “how things stand at the date when we decide those questions”. This means the legislative competence of the Continuity Bill was tested against the Scotland Act as amended by the European Union (Withdrawal) Act. The Court stated that when it considered the legality of the Continuity Bill it was required to consider its legality if it was to become an Act. The Court concluded:

> “ The task of this court when deciding a question in a reference under section 33 is therefore to determine whether the Bill or provision of the Bill would be within legislative competence if it were to receive Royal Assent at the time of our decision. In the rare circumstance in which there is supervening legislation by the UK Parliament which amends the Scotland Act and thereby changes the legislative competence of the Scottish Parliament after the Scottish Parliament has passed a Bill, this court’s decision may be different from what it would have been if the Scotland Act had not been so amended. The amendment of the Scotland Act by the UK Withdrawal Act is such a circumstance.”
>
> Supreme Court, 2018[6]

In simple terms the Court, therefore, held that it was required to review the Continuity Bill in the light of the subsequent European Union (Withdrawal) Act.

The effect of the UK Withdrawal Act on the legislative competence of the Scottish Parliament in relation to the Scottish Bill

The Court ruled that, as a result of the inclusion of the European Union (Withdrawal) Act in Schedule 4 to the Scotland Act, a number of provisions within the Continuity Bill would modify the European Union (Withdrawal) Act contrary to section 29(2)(c) and are therefore outside competence.

Whilst the UK Government argued that the entirety of the Continuity Bill would modify the Withdrawal Act and that the purpose of “inserting an enactment into paragraph 1(2) of Schedule 4 [to the Scotland Act] is so that the Scottish Parliament is not permitted to create its own version of the same regime”.

The Court disagreed with this interpretation, stating:

> “ when the UK Parliament decides to reserve an area of law to itself, it lists the relevant subject-matter in Schedule 5 as a reserved matter. Parliament has not done so in relation to the subject matter of the UK Withdrawal Act. Instead, by adding the UK Withdrawal Act to the list of provisions, in paragraph 1(2) of Schedule 4 to the Scotland Act, which are protected against modification, the UK Parliament has chosen to protect the UK Withdrawal Act against subsequent enactments under devolved powers which would alter a rule in the UK Withdrawal Act or conflict with its unqualified continuation in force.”
>
> Supreme Court, 2018[6]

Therefore, instead of viewing the whole Continuity Bill as a modification of the Withdrawal Act, the Court adjudged that a number of the Continuity Bill's provisions would modify the Withdrawal Act and therefore would not be within legislative competence if the Continuity Bill were to receive Royal Assent.

These are set out below and are outside competence as they either alter a rule in the European Union (Withdrawal) Act (EUWA) or conflict with its unqualified continuation in force”.

- Section 2(2) – modifies section 1 of the EUWA to the extent that this maintains the effect of provisions of the European Communities Act 1972 which the Parliament has power to modify on or after withdrawal from the EU

- Section 5 – maintains the effect in Scots law of the general principles of EU law and the Charter of Fundamental Rights after exit contrary to section 5(4) of the EUWA which provides that the Charter is no longer part of domestic law and paragraph 3 of Schedule 1 which abolishes rights of action based on a failure to comply with EU general principles.

- Section 7(2)(b)– grants the Scottish Ministers power to determine the circumstances in which it would be possible to challenge the invalidity of retained EU law after exit. This is inconsistent with provision in the EUWA which confers this power on UK Ministers. Provisions in section 9A and 9B which relate to the exercise of the section 7(2)(b) power also fall.

- Section 7(3) is inconsistent with paragraph 1 of Schedule 1 to the EUWA which does not preserve accrued rights of action.

- Section 8(2) – grants power to the Scottish Ministers to specify circumstances in which it would still be possible to claim Francovich damages after exit day – paragraph 4 of Schedule 1 to the EUWA cuts off such claims on exit.

- Section 10(2)(3)(a) and (4)(a) – these provisions provide different rules of interpretation of retained devolved EU law to those set out in various provisions of the EUWA.

- Section 11 – grants power to Scottish Ministers to correct deficiencies and further provisions to the extent they are connected to the exercise of this power. This is similar to the power conferred on Scottish Ministers under section 8 of the EUWA but the power is subject to different conditions and restrictions. Accordingly this is equivalent to a modification of the EUWA. Sections 13B, 14, 14A, 15, 16, 19(1) and 22 are also modifications of the EUWA to the extent these provisions relate to section 11. (These provisions are competent in so far as they relate to other provisions of the Bill which are not themselves declared outwith competence.)

- Section 26A(6) – Section 26A imposes duties on the Scottish Ministers to prepare, consult and report on proposals about the protection of specified guiding environmental principles and governance of the environment following withdrawal. Section 26A(6) modifies the EUWA to the extent that this provision directs the interpretation of the general principles by reference to the jurisprudence of the European Court from time to time. This is considered to be inconsistent with section 6(1) of the EUWA.

- Section 33 – which repeals the current restriction preventing the Parliament and Government from acting incompatibly with EU law is inconsistent with section 12 of the EUWA which sets a new limit on legislative competence to modify any retained EU law specified in regulations by UK Ministers.

- Paragraphs 11(a) and 16 of Schedule 1 – which repeal connected provisions of the Scotland Act are also inconsistent with other amendments to the Scotland Act made by the EUWA which are connected to section 12 of that Act.

The Lord Advocate's statement to the Scottish Parliament

Following the announcement of the Court's ruling, the Lord Advocate made a statement to the Scottish Parliament. He began his comments by focussing on the sequencing of the Continuity Bill and the European Union (Withdrawal) Act, he told Parliament:

> " As a result of that sequence of events, the Supreme Court has had to address two issues. First, was the continuity bill within the competence of this Parliament when it passed the bill? Secondly, has the position been affected by the changes that were made to this Parliament's legislative competence—after it passed the continuity bill—particularly the new limit that prevents an act of this Parliament from modifying the European Union (Withdrawal) Act 2018 itself? On the first issue, the Supreme Court has concluded that when this Parliament passed the continuity bill, the bill was, with the exception of section 17, within the competence of this Parliament. In reaching that conclusion, the court has confirmed the constitutional analysis that I and the other devolved law officers advanced in our submissions to the court. It has affirmed this Parliament's power, subject to the limits on its competence, to prepare the statute book against the UK's withdrawal from the European Union. The court has rejected all the submissions that were advanced by the UK Government's law officers on the first issue, with the exception of one argument in relation to section 17. Section 17 would have required the consent of Scottish ministers before certain subordinate legislation made by ministers of the Crown could take effect in Scotland. The court has concluded that that section would modify section 28(7) of the Scotland Act 1998 and would, for that reason, not be within the legislative competence of this Parliament. On the second issue, the court has rejected the submission by the UK Government's law officers that the coming into force of the European Union (Withdrawal) Act 2018 means that the whole continuity bill is now outwith the competence of this Parliament. However, the court has concluded that, as a result of the new limit on the legislative competence of this Parliament that has been imposed by the withdrawal act, certain provisions of the continuity bill may not now become law. That was a new limit on this Parliament's competence, which was imposed after the continuity bill was passed and which is contained in the withdrawal bill—a bill to which this Parliament did not consent."
>
> Scottish Parliament Official Report, 2018[7]

The Lord Advocate also pointed to a number of sections within the Bill which can become law, following the Supreme Court's judgment. These include the powers in section 12 in relation to international obligations, the powers in section 13 to "keep pace" with EU law after exit day and the provisions in section 26A on environmental principles, except the part of section 26A(6) that deals with the approach to the interpretation of those principles.

What happens next?

As the Supreme Court held that a number of the provisions of the Bill were outside the legislative competence of the Parliament, the member in charge of the Bill has the option of requesting that the Parliament reconsider the Bill in light of the ruling.

Speaking for the Scottish Government, the Cabinet Secretary for Government Business and Constitutional Relations Secretary Michael Russell has indicated that the Government "will now reflect on this judgment and discuss with other parties before coming back to Parliament to set out the best way forward." [8]

Bibliography

1 UK Parliament. (2017, July 13). Bill documents — European Union (Withdrawal) Act 2018. Retrieved from https://services.parliament.uk/Bills/2017-19/europeanunionwithdrawal/documents.html [accessed 18 December 2018]

2 Scottish Parliament. (2018, February 27). UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. Retrieved from http://parliament.scot/parliamentarybusiness/Bills/107725.aspx [accessed 18 December 2018]

3 Scottish Parliament Official Report. (2018, March 1). Motion S5M-10735 UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. Retrieved from http://parliament.scot/parliamentarybusiness/report.aspx?r=11388&i=103540 [accessed 18 December 2018]

4 Scottish Parliament. (2018, March 21). UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill As Passed. Retrieved from http://parliament.scot/S5_Bills/UK%20Withdrawal%20from%20the%20European%20Union%20(Legal%20Continuity)%20(Scotland)%20Bill/SPBill28BS052018.pdf [accessed 18 December 2018]

5 Legislation.gov.uk. (1998, November 19). Scotland Act 1998. Retrieved from http://www.legislation.gov.uk/ukpga/1998/46/introduction [accessed 18 December 2018]

6 Supreme Court. (2018, December 13). JUDGMENT THE UK WITHDRAWAL FROM THE EUROPEAN UNION (LEGAL CONTINUITY) (SCOTLAND) BILL - A Reference by the Attorney General and the Advocate General for Scotland (Scotland). Retrieved from https://www.supremecourt.uk/cases/docs/uksc-2018-0080-judgment.pdf [accessed 18 December 2018]

7 Scottish Parliament Official Report. (2018, December 13). UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill (United Kingdom Supreme Court Judgment). Retrieved from http://parliament.scot/parliamentarybusiness/report.aspx?r=11843&i=107174 [accessed 18 December 2018]

8 Scottish Government. (2018, December 13). News Release Supreme Court judgment. Retrieved from https://www.gov.scot/news/supreme-court-judgment/ [accessed 18 December 2018]

SPICe The Information Centre
An t-Ionad Fiosrachaidh

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Iain McIver on telephone number 85294 or Iain.McIver@scottish.parliament.uk.
Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@parliament.scot.
Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.