
Committee Stage: Thursday 24 November 2022

Retained EU Law (Revocation and Reform) Bill (Amendment Paper)

This document lists all amendments tabled to the Retained EU Law (Revocation and Reform) Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Chair's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

Brendan O'Hara 18
Peter Grant

Page 2, line 12, leave out Clause 3

Brendan O'Hara 33
Peter Grant

Page 2, line 21, leave out Clause 4

Brendan O'Hara 34
Peter Grant

Page 3, line 11, leave out Clause 5

Justin Madders 79
Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 7, page 4, line 32, at end insert—

- “(d) the undesirability of disturbing settled understandings of the law, on the basis of which individuals and businesses may have made decisions of importance to them;
- (e) the importance of legal certainty, clarity and predictability; and
- (f) the principle that significant changes in the law should be made by Parliament (or, as the case may be, the relevant devolved legislature).”

Member's explanatory statement

This amendment adds further conditions for higher courts to regard when deciding to diverge from retained EU case law.

Brendan O'Hara

38

Peter Grant

Clause 7, page 5, line 39, after “court)” insert “in England and Wales or Northern Ireland”

Member's explanatory statement

This amendment, together with Amendments 39 to 47 and (a) to Amendment 5, would remove the Scottish courts and Scottish law officers from the case law reference procedure provided for by new sections 6A, 6B and 6C of the EU Withdrawal Act 2018.

Brendan O'Hara

39

Peter Grant

Clause 7, page 5, line 42, leave out from “Court,” to the end of line 2 on page 6

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

40

Peter Grant

Clause 7, page 6, line 35, after “court)” insert “in England and Wales or Northern Ireland”

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

41

Peter Grant

Clause 7, page 7, leave out lines 4 and 5

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

35

Peter Grant

Clause 7, page 7, line 4, leave out “, if the point of law relates to the meaning or effect of relevant Scotland legislation”

Member's explanatory statement

This amendment, together with Amendment 36, modifies the points of law on which the Lord Advocate may make a reference under the new section 6B of the European Union (Withdrawal) Act 2018 so that it is not restricted to points of law which relate to the meaning or effect of relevant Scotland legislation.

Brendan O'Hara

37

Peter Grant

Clause 7, page 7, line 5, after “legislation” insert “, or to the retained functions of the Lord Advocate (within the meaning of section 52(6) of the Scotland Act 1998)”

Member's explanatory statement

This amendment modifies the points of law on which the Lord Advocate may intervene under the new section 6B of the European Union (Withdrawal) Act 2018 so that the power to intervene may be exercised in relation to points of law which concern the retained functions of the Lord Advocate.

Brendan O'Hara

42

Peter Grant

Clause 7, page 7, line 19, leave out from “Court,” to the end of line 21

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

36

Peter Grant

Clause 7, page 8, leave out lines 8 to 21

Member's explanatory statement

This amendment, which is consequential to Amendment 35, modifies the points of law on which the Lord Advocate may make a reference under the new section 6B of the European Union (Withdrawal) Act 2018, omitting the definition of "relevant Scotland legislation" from section 6B.

Brendan O'Hara

44

Peter Grant

Clause 7, page 8, line 40, leave out ", the Advocate General for Scotland"

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

45

Peter Grant

Clause 7, page 9, line 2, after "court", insert "in England and Wales or Northern Ireland"

Member's explanatory statement

See explanatory statement to Amendment 38.

Ms Nusrat Ghani

Gov 5

Clause 7, page 9, leave out lines 5 and 6 and insert—

- "(2) The following are entitled to notice of the proceedings—
- (a) each UK law officer;
 - (b) the Lord Advocate;
 - (c) the Counsel General for Wales;
 - (d) the Attorney General for Northern Ireland."

Member's explanatory statement

This amendment and Amendment 6 leave out the definition of "devolved law officer" from subsection (5) of new section 6C of EUWA and instead mention each devolved law officer in subsection (2) of that section.

As an Amendment to Ms Nusrat Ghani's proposed Amendment 5:—

Brendan O'Hara

(a)

Peter Grant

Line 4, leave out "(b) the Lord Advocate"

Brendan O'Hara

46

Peter Grant

Clause 7, page 9, leave out lines 10 and 11

Member's explanatory statement

See explanatory statement to Amendment 38.

Brendan O'Hara

93

Peter Grant

Clause 7, page 9, line 10, leave out “, if the argument relates to the meaning or effect of relevant Scotland legislation”

Member's explanatory statement

This amendment, together with Amendment 48, modifies the arguments in legal proceedings on which the lord Advocate may intervene under the new section 6C of the European Union (Withdrawal) Act 2018 so that that section is not restricted to arguments which relate to the meaning or effect of relevant Scotland legislation.

Brendan O'Hara

47

Peter Grant

Clause 7, page 9, line 11, after “legislation” insert “, or to the retained functions of the Lord Advocate (within the meaning of section 52(6) of the Scotland Act 1998)”

Member's explanatory statement

See explanatory statement to Amendment 38.

Ms Nusrat Ghani

Gov 6

Clause 7, page 9, leave out lines 20 and 21

Member's explanatory statement

See the statement for Amendment 5.

Brendan O'Hara

48

Peter Grant

Clause 7, page 9, line 22, leave out “relevant Scotland legislation,”

Member's explanatory statement

This amendment, which is consequential to Amendment 93, modifies the arguments in legal proceedings on which the Lord Advocate may intervene under the new section 6C of the European Union (Withdrawal) Act 2018, omitting the definition of “relevant Scotland legislation” from section 6C.

Brendan O'Hara 49
Peter Grant

Clause 7, page 9, line 33, at end insert—

“(11) Within three months of the passage of this Act, the Secretary of State must lay before both Houses of Parliament an assessment of the impact of this section on the commitment of the UK enshrined in article 2(2) of the Northern Ireland Protocol.”

Justin Madders 80
Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 9, page 10, line 36, at end insert—

“(4A) Within 28 days of the making of an incompatibility order, a Minister of the Crown must, by written statement, set out the Government’s view on the incompatibility. The statement must include consideration of the impact the incompatibility order has on rights of and protections for consumers, workers, and businesses, and protections of the environment and animal welfare, and whether the Government intends to produce regulations to revoke, amend or clarify the law in light of the order.”

Member's explanatory statement

This amendment requires ministers to set out, through a ministerial statement, their position on an incompatibility order that includes a consideration of the impact it will have on the rights of people.

Brendan O'Hara 50
Peter Grant

Clause 10, page 11, line 12, leave out paragraph (b) and insert—

“(b) for sub-paragraph (2), substitute—
(2) Power may only be exercised by virtue of sub-paragraph (1) if—
(a) a written statement explaining the modification has been published by the Secretary of State,

- (b) the Secretary of State has made an oral statement on the modification to both Houses of Parliament, and
- (c) the Secretary of State has published an assessment of the impact of the modification."

Brendan O'Hara

51

Peter Grant

Clause 10, page 11, line 18, leave out from "paragraph 3" to the end of line 23 and insert "may not be so made, confirmed or approved unless a draft of the legislation has been laid before, and approved by resolution of, (as the case may be) both Houses of Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly."

Justin Madders

81

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 11, page 13, line 26, leave out subsections (1) and (2)

Member's explanatory statement

This amendment removes the subsections that omit and replace paragraphs 13, 14, and 15 from the European Withdrawal Act 2018, and thereby leaves intact the existing scrutiny procedure for instruments which amend or revoke subordinate legislation made under s2(2) of the ECA 1972.

Brendan O'Hara

52

Peter Grant

Page 13, line 25, leave out Clause 11

Brendan O'Hara

53

Peter Grant

Clause 12, page 15, line 1, leave out subsection (3)

Ms Nusrat Ghani

Gov 8

Clause 12, page 15, line 2, leave out "legislation" and insert "the thing"

Member's explanatory statement

This amendment provides that effects produced by virtue of the retained EU law referred to in subsection (5) do not apply in relation to anything that is codified.

Ms Nusrat Ghani**Gov 9**

Clause 12, page 15, line 10, leave out "of legislation"

Member's explanatory statement

This amendment enables regulations to produce, in relation to anything that is codified, an effect equivalent to an effect mentioned in subsection (4).

Brendan O'Hara**54**

Peter Grant

Clause 12, page 15, line 13, leave out subsection (7)

Ms Nusrat Ghani**Gov 10**

Clause 13, page 15, line 29, leave out "legislation" and insert "thing"

Member's explanatory statement

This amendment provides that effects produced by virtue of the retained EU law referred to in subsection (4) do not apply in relation to anything that is codified.

Ms Nusrat Ghani**Gov 11**

Clause 13, page 15, line 33, leave out "of legislation"

Member's explanatory statement

This amendment enables regulations to produce, in relation to anything that is codified, an effect equivalent to an effect mentioned in subsection (4).

Ms Nusrat Ghani**Gov 12**

Clause 13, page 15, line 36, leave out "of legislation"

Member's explanatory statement

This amendment enables regulations to produce, in relation to anything that is codified, an effect equivalent to an effect mentioned in subsection (7).

Ms Nusrat Ghani

Gov 13

Clause 13, page 15, line 40, leave out “legislation” and insert “thing”

Member's explanatory statement

This amendment enables regulations to produce, in relation to anything that is codified, an effect equivalent to an effect mentioned in subsection (7).

Justin Madders

82

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 14, page 16, line 18, at end insert—

- “(1A) No regulations may be made under section 12 or 13 unless all the following conditions have been satisfied.
- (1B) The first condition is that the relevant national authority has consulted on a draft of the regulations with organisations and persons representative of interests substantially affected by, or with expertise in the likely legal effect of, those regulations.
- (1C) The second condition is that, after that consultation has concluded, the relevant national authority has laid a report before each House of Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru, or the Northern Ireland Assembly) setting out—
- (a) the authority’s view as to whether the proposed regulations make any change in the rights of and protections for consumers, workers, and businesses, and protections of the environment and animal welfare, and the reasons for that view;
 - (b) whether in making the regulations the national authority has considered using its discretion under section 12(6), section 13(6), or subsection (2), (3) or (4) of this section, and if so, the reason why it does or does not intend to exercise that discretion.
- (1D) The third condition is that a period of sixty days has passed since that report was laid, with no account to be taken of any time during which Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru, or the Northern Ireland Assembly) is dissolved or prorogued or during which it was adjourned for more than four days, and where they were laid before Parliament, paragraph 8(11)(a) of Schedule 3 shall apply in determining the commencement of that period.”

Member's explanatory statement

This amendment requires the national authority to consult on a draft text of “restatement” regulations, and to set out its reasoning on the choices made when drafting those regulations to Parliament or the relevant devolved legislature.

Justin Madders

83

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glindon

Clause 14, page 16, line 26, at end insert—

“(3A) A restatement may not be made unless such consultation with relevant stakeholders as the relevant national authority considers appropriate has taken place on whether the conditions set out in subsection (3) are met.”

Member's explanatory statement

This amendment ensures that relevant stakeholders are consulted to ensure that the conditions for the exercise of the power to restate set under clause 14(3) are met.

Ms Nusrat Ghani

Gov 14

Clause 14, page 16, line 31, at end insert—

“(4A) Regulations under section 12 or 13 may not codify or reproduce the principle of the supremacy of EU law or a retained general principle of EU law.

(4B) Nothing in subsection (4A)—

- (a) prevents regulations under section 12 or 13 from codifying or reproducing, in relation to a particular enactment, an effect equivalent to an effect which is produced, or would but for sections 3 to 5 be produced, in relation to the enactment by virtue of the principle of supremacy of EU law or retained general principles of EU law, or
- (b) prevents regulations under section 12 or 13 which codify or reproduce anything which is or was retained EU law by virtue of section 4 of the European Union (Withdrawal) Act 2018 from producing an effect equivalent to an effect which is produced, or would but for sections 3 to 5 be produced, in relation to that thing by virtue of the principle of supremacy of EU law or retained general principles of EU law.”

Member's explanatory statement

This amendment and Amendment 15 clarify that the powers under Clauses 12 and 13 may not be used so as to codify or reproduce the principle of supremacy of EU law or a retained general principle of EU law.

Brendan O'Hara

56

Peter Grant

Clause 14, page 16, line 32, leave out subsection (5)

Ms Nusrat Ghani

Gov 15

Clause 14, page 16, line 40, at end insert—

“(7A) In subsections (4A) and (4B) “retained general principles of EU law” has the same meaning as in section 12 or 13 (as the case may be).”

Member's explanatory statement

This amendment and Amendment 14 clarify that the powers under Clauses 12 and 13 may not be used so as to codify or reproduce the principle of supremacy of EU law or a retained general principle of EU law.

Brendan O'Hara

55

Peter Grant

Clause 14, page 17, line 2, at end insert—

“(9) Regulations under section 12 or 13 may not be made unless the relevant national authority has consulted all parties that authority considers relevant.”

Brendan O'Hara

23

Peter Grant

Clause 15, page 17, line 4, at beginning insert “Subject to subsection (1A),”

Brendan O'Hara

24

Peter Grant

Clause 15, page 17, line 5, at end insert—

“(1A) A Minister of the Crown may not make regulations under subsection (1) unless a motion approving the revocation of the secondary retained EU law has been passed by the House of Commons, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly.

(1B) A motion under subsection (1A) must state the date on which the secondary retained EU law is to be repealed, and any regulations under subsection (1) which follow such a motion must provide for the revocation to take place on that date.”

Justin Madders

76

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 17, line 5, at end insert—

- “(1A) Subsection (1) does not apply to the following instruments—
- (a) Management of Health and Safety at Work Regulations 1999,
 - (b) Children and Young Person Working Time Regulations 1933,
 - (c) Posted Workers (Enforcement of Employment Rights) Regulations 2020,
 - (d) Part Time Employees (Prevention of Less Favourable Treatment) Regulations 2000,
 - (e) Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002,
 - (f) Transfer of Undertakings (Protection of Employment) Regulations 2006,
 - (g) Information and Consultation of Employees Regulations 2004,
 - (h) Road Transport (Working Time) Regulations 2005,
 - (i) Working Time Regulations 1998,
 - (j) Agency Workers Regulations 2010,
 - (k) Maternity and Parental Leave etc Regulations 1999,
 - (l) Trade Secrets (Enforcement etc) Regulations 2018,
 - (m) The Health and Safety (Consultation with Employees) Regulations 1996, and
 - (n) Information and Consultation of Employees Regulations 2004.”

Member's explanatory statement

This amendment would exclude certain legislation which provides for workers' protections from the power to revoke without replacement in subsection (1).

Justin Madders

77

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glindon

Clause 15, page 17, line 5, at end insert—

- “(1A) Subsection (1) does not apply to the following instruments—
- (a) The REACH Regulation and the REACH Enforcement Regulations 2008,
 - (b) The Conservation of Habitats and Species Regulations 2017,
 - (c) The Conservation of Offshore Marine Habitats and Species Regulations 2017,
 - (d) The Urban Waste Water Treatment (England and Wales) Regulations 1994,
 - (e) The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010,
 - (f) The Bathing Waters Regulations 2013,
 - (g) Water Environment (Water Framework Directive) (England and Wales) Regulations 2017,

- (h) The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (also known as the Farming Rules for Water),
- (i) The Marine Strategy Regulations 2010,
- (j) The Marine Works (Environmental Impact Assessment) Regulations 2007,
- (k) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017,
- (l) The Plant Protection Products Regulations 1107/2009,
- (m) The Sustainable Use Directive Regulation (EC) 396/2005,
- (n) The National Emission Ceilings Regulations 2018,
- (o) Invasive Alien Species (Enforcement and Permitting) Order (2019),
- (p) Directive 2010/63 on the protection of animals used for scientific purposes,
- (q) Directive 1999/74 laying down minimum standards for the protection of laying hens,
- (r) Regulation 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof, and
- (s) The Welfare of Animals (Transport) (England) Order 2006.”

Member's explanatory statement

This amendment would exclude certain legislation which provides for environmental protections from the power to revoke without replacement in subsection (1).

Justin Madders

78

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 17, line 5, at end insert—

“(1A) Subsection (1) does not apply to the following instruments—

- (a) The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005,
- (b) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations,
- (c) The Consumer Rights (Payment Surcharges) Regulations 2012,
- (d) The Electrical Equipment (Safety) Regulations 2016,
- (e) The Toys (Safety) Regulations 2011,
- (f) The Control of Asbestos Regulations 2012,
- (g) The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015,
- (h) The Cocoa and Chocolate Products (England) Regulations 2003,
- (i) Commission Regulation (EU) No 748/2012 of 3 August 2012,

- (j) The Representation of the People (England and Wales) Regulations 2001, and
- (k) The Bauer [C-168/18] and Hampshire [C-17/17] judgements.”

Member's explanatory statement

This amendment would exclude certain legislation which provides for consumer protections from the power to revoke without replacement in subsection (1).

Justin Madders**84**

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 17, line 30, at end insert—

“(4A) No regulations may be made under this section unless the conditions set out in section [*Conditions on the exercise of powers under section 15 and 16*] have been complied with.”

Member's explanatory statement

This amendment ensures that the powers to revoke or replace would be subject to restrictions as laid out in NC9.

Justin Madders**85**

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 17, line 31, leave out subsections (5) and (6)

Member's explanatory statement

This amendment will remove the restriction on the replacement of EU law that states it must not add to the regulatory burden.

Justin Madders**94**

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 17, line 37, at end insert—

“(6A) No provision may be made under this section unless the relevant national authority considers that the effect of the provision will lead to an increase in levels of environmental protection.

- (6B) The relevant national authority must consult its environmental governance body before making any provision under this section.
- (6C) The relevant national authority must publish any advice it receives from its environmental governance body, as well as the authority's response and reasons for any departure from this advice, and lay these documents before the relevant parliament or assembly.
- (6D) No provision may be made by the relevant national authority under this section until the final version of its policy statement or statutory guidance on environmental principles, as set out in Section 14 of the Environment Act 2021 for England, Schedule 2 paragraph (6) for Northern Ireland, and Section 14 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 for Scotland, has been laid before the respective Parliament and the relevant legal duty commenced.
- (6E) The relevant national authority must consult persons or bodies representing the interests of those likely to be affected by the provisions before making regulations under this section.
- (6F) No provision may be made under this section by a Minister of the Crown until the legally binding targets required under the Environment Act 2021 have been published, and the Secretary of State has laid before Parliament a statement setting out how the provision is compatible with the delivery of these targets."

Member's explanatory statement

This amendment sets a number of conditions which must be met before provision under this clause revoking or replacing retained EU law may be made.

Justin Madders**86**

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Clause 15, page 18, leave out lines 1 to 7

Member's explanatory statement

This amendment is consequential on Amendment 85.

Brendan O'Hara**57**

Peter Grant

Page 17, line 3, leave out Clause 15

Member's explanatory statement

This amendment leaves out Clause 15 of the Bill, on powers to revoke and replace secondary retained EU law, in its entirety.

Brendan O'Hara 70

Peter Grant

Clause 16, page 18, line 25, at end insert—

“(1A) Before the power in subsection (1) may be exercised, the relevant national authority must publish a written statement on any societal and economic changes relevant to the intended modifications.”

Justin Madders 87

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glindon

Clause 16, page 18, line 27, at end insert—

“(3) No regulations may be made under this section unless the conditions set out in section [*Conditions on the exercise of powers under section 15 and 16*] have been complied with.”

Member's explanatory statement

This amendment would ensure that the power to update would be subject to the restrictions laid out in NC9.

Brendan O'Hara 20

Peter Grant

Page 19, line 2, leave out Clause 18

Brendan O'Hara 64

Peter Grant

Clause 20, page 20, line 13, at end insert—

“(1A) A Minister of the Crown may not include in regulations under this Act any provision which is within the devolved competence of any devolved authority as defined in paragraph 2 of Schedule 2.”

Ms Nusrat Ghani

Gov 1

Schedule 3, page 30, line 5, leave out paragraph 2 and insert—

- “2 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is not subject to the procedure mentioned in sub-paragraph (1) (whether or not it is subject to any other procedure before Parliament).
- (3) Where regulations are included as mentioned in sub-paragraph (2), the statutory instrument is subject to the procedure mentioned in sub-paragraph (1) (and is not subject to any other procedure before Parliament).
- (4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Senedd Cymru as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament, but as if references to Parliament were references to the Senedd.
- (5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if references to Parliament were references to the Northern Ireland Assembly.
- (6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before a devolved legislature as well as a procedure before Parliament as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament, but as if references to Parliament were references to Parliament and the devolved legislature.
- (7) In sub-paragraph (6) “devolved legislature” means the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.
- (8) Nothing in this paragraph prevents the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act.”

Member's explanatory statement

This amendment enables regulations under this Act subject to the draft affirmative procedure to be combined with regulations that are not subject to that procedure.

Justin Madders

88

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

Schedule 3, page 31, line 6, leave out from “15” to the end of line 8 and insert—
“(d) regulations under section 16.”

Member's explanatory statement

This amendment, together with Amendment 89, would make all regulations under Clause 15 (regulations that are intended to achieve the same or similar objectives as the REUL being replaced) and under section 16 (technological developments) subject to affirmative procedure.

Justin Madders

89

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glindon

Schedule 3, page 31, line 17, leave out paragraph (c)

Member's explanatory statement

See explanatory statement to Amendment 88.

Brendan O'Hara

69

Peter Grant

Schedule 3, page 33, line 10, at end insert—

“Consent of Scottish Ministers

8A Before making regulations to which this Part of this Schedule applies, a Minister of the Crown must obtain the consent of the Scottish Ministers.”

Member's explanatory statement

This amendment modifies the powers which are conferred on Ministers of the Crown in devolved areas so that they may only be exercised with the consent of the Scottish Ministers.

Brendan O'Hara

66

Peter Grant

Clause 22, page 21, line 39, at end insert—

“(aa) section [Impact assessments];”

Brendan O'Hara

71

Peter Grant

Clause 22, page 21, line 39, at end insert—

“(aa) section [*Assessment of the impact of repeal of retained EU law*];”

Brendan O'Hara

61

Peter Grant

Clause 22, page 21, line 42, at end insert—

“(da) section [*Impact on the UK's obligations under the Trade and Cooperation Agreement*];”

Brendan O'Hara

65

Peter Grant

Clause 22, page 21, line 42, at end insert—

“(da) section [*Disapplication of the UK Internal Market Act 2020*];”

Brendan O'Hara

67

Peter Grant

Clause 22, page 21, line 42, at end insert—

“(da) section [*Workers' rights*];”

Brendan O'Hara

62

Peter Grant

Clause 22, page 22, line 5, at end insert—

“(3A) But no provision of this Act, other than this section, may come into force in relation to Scotland unless the Scottish Parliament has passed a motion consenting to the Act.”

Ms Nusrat Ghani

Gov 7

Clause 22, page 22, line 9, at end insert—

“(b) the revocation of anything by section 1, or
(c) anything ceasing to be recognised or available in domestic law (and, accordingly, ceasing to be enforced, allowed or followed) as a result of section 3.”

Member's explanatory statement

This amendment provides that transitional, transitory or saving provision may be made in connection with anything sunsetted under Clause 1 or 3.

Brendan O'Hara 60
Peter Grant

Clause 22, page 22, line 19, at end insert—

“(d) any regulations made under section 2 of the European Communities Act 1972 which have the effect of conferring rights or protections on workers.”

Brendan O'Hara 21
Peter Grant

Clause 23, page 22, line 23, leave out “Scotland”

Brendan O'Hara NC1
Peter Grant

To move the following Clause—

“Impact on the UK’s obligations under the Trade and Cooperation Agreement

Within three months of the passage of this Act, the Secretary of State must lay before Parliament an assessment of the impact of this Act on the UK’s obligations under the Trade and Cooperation Agreement between the UK and the European Union done at Brussels and London on 30 December 2020.”

Brendan O'Hara NC2
Peter Grant

To move the following Clause—

“Disapplication of the UK Internal Market Act 2020

Where Scottish Ministers have used any power granted to them under this Act—

- (a) to provide that any EU-derived subordinate legislation or retained direct EU legislation is not subject to revocation at the end of 2023, or
- (b) to restate any provision of retained EU law (or, as the case may be, assimilated law),

that legislation or provision shall apply notwithstanding any provision of the UK Internal Market Act 2020.”

Brendan O'Hara

NC3

Peter Grant

To move the following Clause—

“Impact assessments

The Secretary of State must publish an assessment of the impact of the

- (a) revocation of any—
 - (i) EU-derived subordinate legislation, or
 - (ii) retained direct EU legislation, or
- (b) removal under section 3 of any rights, powers, liabilities, obligations, restrictions, remedies or procedures saved by virtue of section 4 of the European Union (Withdrawal) Act 2018 at least three months before the revocation or (as the case may be) removal takes effect.”

Brendan O'Hara

NC4

Peter Grant

To move the following Clause—

“Workers’ rights

The Secretary of State must by 1 January 2023 publish a list of any provision to which this Act applies which confers rights or protections on workers which has not been—

- (a) subject to regulations under section 1(2),
- (b) restated under section 12 or 13,
- (c) replaced under section 15(2), or
- (d) revoked under section 15(3) and replaced with alternative provision as at 1 January 2023.”

Brendan O'Hara

NC5

Peter Grant

To move the following Clause—

“Extension of sunset to 2026 under section 1 by Scottish Ministers

- (1) The Scottish Ministers may by regulations provide that section 1, as it applies in relation to a specified instrument or a specified description of legislation within section 1(1)(a) or (b), has effect as if the reference in section 1(1) to the end of 2023 were a reference to a later specified time.

- (2) In subsection (1) “specified” means specified in the regulations.
- (3) Regulations under subsection (1) may not specify a time later than the end of 23 June 2026.”

Member's explanatory statement

This amendment would give the Scottish Ministers a power to extend the sunset date for devolved retained EU law equivalent to that conferred on a Minister of the Crown by Clause 2 of the Bill.

Brendan O'Hara

NC6

Peter Grant

To move the following Clause—

“Extension of sunset to 2029 under section 1 by Scottish Ministers

- (1) The Scottish Ministers may by regulations provide that section 1, as it applies in relation to a specified instrument or a specified description of legislation within section 1(1)(a) or (b), has effect as if the reference in section 1(1) to the end of 2026 were a reference to a later specified time.
- (2) In subsection (1) “specified” means specified in the regulations.
- (3) Regulations under subsection (1) may not specify a time later than the end of 23 June 2029.”

Member's explanatory statement

This new clause confers a power on the Scottish Ministers to modify the date that the revocation of EU-derived subordinate legislation and retained direct EU legislation may take effect, to a date no later than 23 June 2029.

Brendan O'Hara

NC7

Peter Grant

To move the following Clause—

“Assessment of the impact of repeal of retained EU law

Within three months of the passage of this Act, the Secretary of State must publish an assessment of the impact of the repeal of any retained EU law done under the provisions of this Act.”

Justin Madders

NC8

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

To move the following Clause—

“Conditions for bringing sections 3, 4 and 5 into force

- (1) None of sections 3, 4 or 5 may be brought into force unless all the following conditions have been satisfied.
- (2) The first condition is that a Minister of the Crown has, after consulting organisations and persons representative of interests substantially affected by, or with expertise in the likely legal effect of, that section on a draft of that report, laid a report before each House of Parliament setting out, with reasons, the Minister’s view as to the likely advantages and disadvantages of bringing that section into force, setting out in particular the effect of that section on—
 - (a) the rights of and protections for consumers, workers, and businesses, and protections of the environment and animal welfare;
 - (b) legal certainty, and the clarity and predictability of the law;
 - (c) the operation of the Trade and Cooperation agreement between the United Kingdom and the EU, and UK exports of goods and services to the European Economic Area; and
 - (d) the operation of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (3) In relation to section 4, that report must take into account any regulation made or likely to be made by a relevant national authority under section 8(1).
- (4) The second condition is that a period of sixty days has passed since that report was laid before Parliament, with no account to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- (5) The third condition is that, after the end of that period, both Houses of Parliament have approved a resolution that that section come into force.
- (6) If both Houses of Parliament have approved a resolution that that section should not come into force unless it is amended in a way set out in that resolution, then the Minister may by regulation amend that section accordingly, and that section may not be brought into force until that amendment has been made.”

Member's explanatory statement

This new clause requires Ministers to analyse, and to explain their analysis of, the effect of the removal of retained EU law rights, the principle of supremacy of EU law, and of the general principles. It also includes opportunity for Parliamentary approval and timeframes for laying reports before both Houses.

Justin Madders

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

NC9

To move the following Clause—

“Conditions on the exercise of powers under section 15 and 16

- (1) The first condition is that the relevant national authority has consulted such organisations as appear to it to be representative of interests substantially affected by its proposals, and any such other persons as it considers appropriate, on a draft of those regulations.
- (2) The second condition is that the national authority has, after that consultation has concluded and after considering any representations made to it, laid a draft of the regulations before each House of Parliament (or, as the case may be, the Scottish Parliament, Senedd or Northern Ireland Assembly), together with a report setting out, with reasons, the authority’s view as to the likely advantages and disadvantages of making those regulations, setting out in particular—
 - (a) a summary of the objectives and effect of those regulations as compared to the instrument that they will revoke, replace or modify;
 - (b) any difference as between that instrument and the proposed regulations in terms of protections for consumers, workers, businesses, the environment, or animal welfare;
 - (c) any benefits which are expected to flow from the revocation or replacement of that instrument;
 - (d) the consultation undertaken as required by subsection (2);
 - (e) any representations received as a result of that consultation;
 - (f) the reason why the national authority considers that it is appropriate to make those regulations, having considered those representations;
 - (g) the reasons why the national authority considers that section 15(5) (overall reduction in burdens) does not preclude the making of the regulations, explaining what burdens are reduced or increased as a result of the making of the regulations;
 - (h) the compatibility of the revocation, modification, or replacement of that instrument with obligations in the Trade and Cooperation Agreement between the United Kingdom and the EU, and the likely effect on UK exports of goods or services to the European Economic Area; and
 - (i) the likely effect of the revocation, modification, or replacement of that instrument on the operation of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (3) The third condition is that a period of sixty days has passed since those draft regulations or that report were laid as required by subsection (2) with no account to be taken of any time during which Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly) is dissolved or prorogued or during which either House or that body is adjourned for more than four days, and where they were laid before Parliament, paragraph 8(11)(a) of Schedule 3 shall apply in determining the commencement of that period.
- (4) The fourth condition is that the national authority has considered any representations made during the period provided for by subsection (3) and,

in particular, any resolution or report of, or of any committee of, either House of Parliament (or, as the case may be of the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly) with regard to the proposals, and has published its reasons for accepting or rejecting any such representations, resolution, or report.”

Member's explanatory statement

This new clause requires the relevant national authorities to consult with key stakeholders on proposed regulations revoking or replacing REUL, and to show Parliament their assessment of the impact of the changes.

Justin Madders

NC10

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

To move the following Clause—

“Equality impact assessments

- (1) This section applies when—
 - (a) a relevant national authority is making regulations under section 12, 13, 15 or 16, or
 - (b) EU-derived subordinate legislation or retained direct EU legislation is to be revoked under section 1(1) of this Act and regulations made under section 2 do not apply to that legislation.
- (2) Six weeks prior to the coming into force of the regulations or (as the case may be) three months before the revocation of the legislation, a relevant national authority must lay before Parliament a report demonstrating that in making the regulations or allowing the revocation of the legislation the authority has fulfilled its obligations under section 149 of the Equality Act 2010.
- (3) If the report required by subsection (2) is not laid before Parliament by the date required by subsection (2), the regulations may not be made or (as the case may be) the legislation is, notwithstanding section 1(1), not revoked.”

Member's explanatory statement

This new clause will insert the requirement for undertaking an equality impact assessment when using the powers afforded by sections 12, 13, 15, and 16, and before the application of section 1(1) (sunset of retained EU law).

Justin Madders

NC11

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

To move the following Clause—

“Impact assessments

- (1) This section applies when—
 - (a) a relevant national authority is making regulations under section 12, 13, 15 or 16, or
 - (b) EU-derived subordinate legislation or retained direct EU legislation is to be revoked under section 1(1) of this Act and regulations made under section 2 do not apply to that legislation.
- (2) Six weeks prior to the coming into force of the regulations or (as the case may be) three months before the revocation of the legislation, a relevant national authority must lay before Parliament the report required by subsection (3).
- (3) The report required by this subsection must outline the impact the authority expects the regulations or (as the case may be) revocation to have on—
 - (a) the UK’s obligations under the Trade and Cooperation Agreement,
 - (b) divergence in standards, rights, protections and regulatory burden between component parts of the UK,
 - (c) the regulatory burden for businesses seeking to import or export goods or services, and
 - (d) level playing field provisions contained within bilateral trade agreements between the UK and countries outside the EU.
- (4) If the report required by subsection (3) is not laid before Parliament by the date required by subsection (2), the regulations may not be made or (as the case may be) the legislation is, notwithstanding section 1(1), not revoked.”

Member's explanatory statement

This new clause will insert the requirement for taking out a comprehensive impact assessment when using the powers afforded by sections 12, 13, 15, and 16, and before the application of section 1(1) (sunset of retained EU law).

Justin Madders

NC12

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

To move the following Clause—

“Assessment of impact on governance

- (1) Each relevant national authority must, within 28 days of the passage of this Act, lay before Parliament a report on—
 - (a) the projected cost incurred by each Government department or relevant national authority of complying with the requirements of sections 1 to 23 of this Act;

- (b) the projected number of staff required by each Government department or relevant national authority to process all of the relevant retained EU law by the deadline in section 1(1);
 - (c) the amount of Parliamentary time expected to be needed to process the legislation relevant to each Government department or relevant national authority; and
- a timeline outlining how each Government department or relevant national authority plans to meet the deadline in section 1(1)."

Member's explanatory statement

This new clause will establish the requirement for relevant departments to publish an assessment of the impact of processing through all the retained EU Law before the deadline set by Clause 1(1).

Justin Madders

NS1

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

To move the following Schedule—

"SCHEDULE

THE DEFINITIVE LIST

This schedule sets out the Definitive List in accordance with section 1 of this Act."

Order of the House

[25 October 2022, as amended 7 November 2022]

That the following provisions shall apply to the Retained EU Law (Revocation and Reform) Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on 29 November 2022.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and on Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No.83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.

Order of the Committee

[8 November 2022]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 8 November) meet—
 - (a) at 2.00 pm on Tuesday 8 November;
 - (b) at 9.25 am and 2.00 pm on Tuesday 22 November;
 - (c) at 11.30 am and 2.00 pm on Thursday 24 November;
 - (d) at 9.25 am and 2.00 pm on Tuesday 29 November;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 8 November	Until no later than 9.50 am	Sir Stephen Laws KCB KC
Tuesday 8 November	Until no later than 10.25 am	Professor Catherine Barnard, Professor of European & Employment Law, University of Cambridge; Professor Alison Young; Sir David Williams, Professor of Public Law, University of Cambridge
Tuesday 8 November	Until no later than 10.55 am	Tom Sharpe KC, One Essex Court; Martin Howe KC, 8 New Square
Tuesday 8 November	Until no later than 11.25 am	The Bar Council; Eleanor Duhs, Bates Wells

Date	Time	Witness
Tuesday 8 November	Until no later than 2.35 pm	Sir Richard Aikens, Brick Court Chambers; Barnabas Reynolds, Shearman and Sterling; Jack Williams, Monckton Chambers
Tuesday 8 November	Until no later than 3.05 pm	Sir Jonathan Jones KC, Linklaters; Hansard Society
Tuesday 8 November	Until no later than 3.35 pm	Trades Union Congress; Unison
Tuesday 8 November	Until no later than 4.20 pm	Green Alliance; Wildlife & Countryside Link; Unchecked UK; RSPCA
Tuesday 8 November	Until no later than 4.40 pm	The Scottish Government
Tuesday 8 November	Until no later than 5.10 pm	Law Society of Scotland; Charles Whitmore, Research Associate, Cardiff University; Dr Viviane Gravey, Senior Lecturer, Queen's University Belfast

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 10, Schedule 1, Clauses 11 to 20, Schedules 2 and 3, Clauses 21 to 23, new Clauses, new Schedules, remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 29 November.

Withdrawn Amendments

The following amendments were withdrawn on 16 November 2022: **19, 25, 27, 30 and 43 (duplicate amendments)**

The following amendment was withdrawn on 23 November 2022: **92**