
Committee Stage: Tuesday 29 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 Any withdrawn amendments are listed at the end of the document.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

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 Glendon

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 Glendon

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

NC9

Alex Sobel
Stella Creasy
Paul Blomfield
Mary Glendon

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 |
| 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**