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Report Stage: Wednesday 11 January 2023

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# Retained EU Law (Revocation and Reform) Bill, As Amended (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 Any withdrawn amendments are listed at the end of the document.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.

★ New amendments.

New Amendments: 1 to 17, NC1 and NS1

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Secretary Grant Shapps

Gov NC1

★ To move the following Clause—

**“Assimilated law”**

- (1) As regards all times after the end of 2023, the things listed in the left-hand column are to be known by the names in the right-hand column.

<i>At or before the end of 2023</i>	<i>After the end of 2023</i>
Retained EU law	Assimilated law
Retained case law	Assimilated case law
Retained direct EU legislation	Assimilated direct legislation
Retained direct minor EU legislation	Assimilated direct minor legislation
Retained direct principal EU legislation	Assimilated direct principal legislation
Retained domestic case law	Assimilated domestic case law
Retained EU case law	Assimilated EU case law
Retained EU obligation	Assimilated obligation

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- (2) Accordingly, as regards all times at or before the end of 2023, the things listed in the right-hand column continue to be known by the names in the left-hand column.
- (3) Schedule ("*Assimilated law*": *consequential amendments*) contains amendments consequential on subsection (1).
- (4) A reference in an enactment to a thing in the left-hand column of the table in subsection (1) is to be read, as regards all times after the end of 2023, as a reference to the thing by its name in the right-hand column.
- (5) Subsection (4) does not apply to any title of an enactment (including any provision about how an enactment may be cited) or any reference to a title of an enactment.
- (6) The provision that may be made by regulations under section 19 (power to make consequential provision) in consequence of subsection (1) of this section includes, in particular—
  - (a) provision adding entries to the table in subsection (1) for things which relate to the things for which there are entries in the table (and adding definitions for those things to subsection (7));
  - (b) provision amending an enactment in consequence of the name of a thing being changed by subsection (1) (including by virtue of regulations under section 19).
- (7) In this section—
 

"retained case law", "retained domestic case law" and "retained EU case law" have the meaning given by section 6(7) of the European Union (Withdrawal) Act 2018 (as it has effect on the day on which this Act is passed);

"retained EU law", "retained direct EU legislation", "retained direct minor EU legislation", "retained direct principal EU legislation" and "retained EU obligation" have the meaning given by Schedule 1 to the Interpretation Act 1978 (as it has effect on the day on which this Act is passed)."

#### Member's explanatory statement

This new clause renames "retained EU law" and related bodies or types of law and makes related provision.

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Secretary Grant Shapps

Gov 1

★ Clause 2, page 2, line 13, at end insert—

"(2A) Any reference in regulations under subsection (1) to an instrument or description of legislation is, unless otherwise stated, to the instrument or description of legislation as it subsists immediately before the time when the revocation under section 1(1) would otherwise apply in relation to it."

**Member's explanatory statement**

This amendment clarifies that regulations under subsection (1) that specify an instrument or description of legislation are to be read as referring to the instrument or description as it has effect immediately before the time when the sunset would otherwise apply in relation to it.

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Secretary Grant Shapps

Gov 3

- ★ Page 4, line 2, leave out clause 6

**Member's explanatory statement**

This amendment is consequential on NC1.

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Secretary Grant Shapps

Gov 6

- ★ Clause 7, page 4, line 19, at end insert—

“(za) in paragraph (b)—

- (i) in sub-paragraph (i) omit the words from “otherwise” to “1998”;
- (ii) after sub-paragraph (ii) (and on a new line) insert “(except, when sitting as a court of appeal in relation to a compatibility issue or devolution issue, so far as there is relevant domestic case law which modifies or applies the retained EU case law and is binding on the court);”;

**Member's explanatory statement**

This amendment is a drafting change, bringing together provisions relating to the High Court of Justiciary.

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Secretary Grant Shapps

Gov 7

- ★ Clause 7, page 5, line 11, after “section” insert—

““compatibility issue” has the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995;

“devolution issue” has the meaning given by paragraph 1 of Schedule 6 to the Scotland Act 1998;

“relevant appeal court” means—

- (a) the Court Martial Appeal Court,
- (b) the Court of Appeal in England and Wales,
- (c) the Inner House of the Court of Session,
- (d) the court for hearing appeals under section 57(1)(b) of the Representation of the People Act 1983,
- (e) the Lands Valuation Appeal Court, or
- (f) the Court of Appeal in Northern Ireland;”

**Member's explanatory statement**

This amendment is consequential on Amendment 6.

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**Secretary Grant Shapps**

**Gov 8**

- ★ Clause 7, page 5, leave out lines 20 to 32

**Member's explanatory statement**

This amendment is consequential on Amendment 7.

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**Secretary Grant Shapps**

**Gov 9**

- ★ Clause 7, page 6, leave out lines 6 and 7

**Member's explanatory statement**

This amendment is consequential on Amendment 6.

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**Secretary Grant Shapps**

**Gov 10**

- ★ Clause 7, page 6, line 9, leave out "relevant"

**Member's explanatory statement**

This amendment, and Amendments 10 to 13, enable a reference to be made to the High Court of Justiciary in all relevant cases.

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**Secretary Grant Shapps**

**Gov 11**

- ★ Clause 7, page 6, line 27, leave out "a relevant" and insert "the appropriate"

**Member's explanatory statement**

See the statement for Amendment 10.

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**Secretary Grant Shapps**

**Gov 12**

- ★ Clause 7, page 6, line 30, leave out from "appropriate" to "point" in line 33 and insert "appeal court" means, in relation to proceedings before a court or tribunal, the court mentioned in subsection (10) to which an appeal from the court or tribunal in those proceedings on the"

**Member's explanatory statement**

See the statement for Amendment 10.

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**Secretary Grant Shapps****Gov 13**

★ Clause 7, page 6, line 36, at end insert—

“(10) The courts referred to in subsection (9) are—

- (a) the Court Martial Appeal Court;
- (b) the Court of Appeal in England and Wales;
- (c) the Inner House of the Court of Session;
- (d) the High Court of Justiciary when sitting as a court of appeal or on a reference under section 123(1) of the Criminal Procedure (Scotland) Act 1995;
- (e) the court for hearing appeals under section 57(1)(b) of the Representation of the People Act 1983;
- (f) the Lands Valuation Appeal Court;
- (g) the Court of Appeal in Northern Ireland.”

**Member's explanatory statement**

See the statement for Amendment 10.

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**Secretary Grant Shapps****Gov 14**

★ Clause 7, page 7, leave out lines 24 and 25

**Member's explanatory statement**

This amendment is consequential on Amendment 6.

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**Secretary Grant Shapps****Gov 15**

★ Clause 7, page 7, line 27, leave out “relevant”

**Member's explanatory statement**

This amendment enables a reference under new section 6B to be made to the High Court of Justiciary in all relevant cases.

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**Secretary Grant Shapps****Gov 16**

★ Clause 7, page 7, line 33, leave out “a relevant” and insert “the appropriate”

**Member's explanatory statement**

This amendment is consequential on Amendment 15.

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**Secretary Grant Shapps****Gov 17**

★ Clause 7, page 9, line 30, leave out paragraph (b)

**Member's explanatory statement**

This amendment is consequential on Amendment 8.

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**Secretary Grant Shapps**

**Gov 2**

★ Clause 14, page 17, line 24, leave out “, a reference to restatement includes reproduction” and insert ““restatement”—

- “(a) in relation to section 12, has the same meaning as in that section;
- (b) in relation to section 13, has the same meaning as in that section but also includes reproduction;”

**Member's explanatory statement**

This amendment clarifies that references to “restatement” in this clause have the same meaning as in clause 12 or 13 (as well as including, in relation to clause 13, reproduction).

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**Secretary Grant Shapps**

**Gov 4**

★ Clause 22, page 22, line 21, leave out paragraph (b) and insert—

- “(b) section (“*Assimilated law*”)(1), (2) and (4) to (7);”

**Member's explanatory statement**

This amendment is consequential on NC1.

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**Secretary Grant Shapps**

**Gov 5**

★ Clause 22, page 23, line 7, at end insert—

- “(7) The amendments made by Schedule (“*Assimilated law*”: *consequential amendments*) do not apply as regards any time at or before the end of 2023.”

**Member's explanatory statement**

This amendment provides that the amendments made by the Schedule inserted by NS1 do not apply as regards any time at or before the end of 2023.

Secretary Grant Shapps

Gov NS1

★ To move the following Schedule—

## "SCHEDULE

### "ASSIMILATED LAW": CONSEQUENTIAL AMENDMENTS

#### *European Union (Withdrawal) Act 2018*

- 1 (1) The European Union (Withdrawal) Act 2018 (as amended by this Act) is amended as follows.
  - (2) In section 5 (exceptions to savings and incorporation), in subsections (A2) and (8), for "retained direct EU" substitute "assimilated direct".
  - (3) In section 6 (interpretation of retained EU law)—
    - (a) in the heading for "retained EU" substitute "assimilated";
    - (b) in subsection (3)—
      - (i) for "retained EU" substitute "assimilated";
      - (ii) in paragraph (a) for "retained" (in the first place it appears) substitute "assimilated";
    - (c) in subsections (4) to (5ZA), for "retained" (in each place it appears) substitute "assimilated";
    - (d) in subsection (6), for "retained EU" substitute "assimilated";
    - (e) in subsection (7)—
      - (i) before the definition of "higher court" insert—
 

"assimilated case law" means—

        - (a) assimilated domestic case law, and
        - (b) assimilated EU case law;

"assimilated domestic case law" means any principles laid down by, and any decisions of, a court or tribunal in the United Kingdom, as they have effect immediately before IP completion day and so far as they—

        - (a) relate to anything to which section 2 or 3 applies, and
        - (b) are not excluded by section 5 or Schedule 1, (as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

"assimilated EU case law" means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before IP completion day and so far as they—

        - (a) relate to anything to which section 2 or 3 applies, and
        - (b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

“assimilated law” means anything which, on or after IP completion day, continues to be, or forms part of, domestic law by virtue of section 2 or 3 or subsection (3) or (6) above (as that body of law is added to or otherwise modified by or under this Act or by other domestic law from time to time);”;

- (ii) omit the definitions of “retained case law”, “retained domestic case law”, retained EU case law” and “retained EU law”.
- (4) In section 6A (references on retained case law by lower courts or tribunals), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
  - (5) In section 6B (references on retained case law by UK or devolved law officers), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
  - (6) In section 6C (interventions on retained case law by UK or devolved law officers), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
  - (7) In section 6D (incompatibility orders), in subsection (1)(a) and (b), for “retained direct EU” substitute “assimilated direct”.
  - (8) In section 7 (status of retained EU law)—
    - (a) in the heading for “retained EU” substitute “assimilated”;
    - (b) in subsection (4A) for “Retained direct EU” substitute “Assimilated direct”;
    - (c) in subsection (5)—
      - (i) for “retained EU” (in each place it appears) substitute “assimilated”;
      - (ii) in paragraph (b), for “retained” (in the first place it appears) substitute “assimilated”;
      - (iii) in paragraphs (e) and (f), for “retained direct EU” substitute “assimilated direct”.
    - (d) omit subsection (6).
  - (9) In section 20(1) (interpretation)—
    - (a) before the definition of “Charter of Fundamental Rights” insert—
      - ““assimilated direct legislation” means any direct EU legislation which forms part of domestic law by virtue of section 3 (as modified by or under this Act or by other domestic law from time to time, and including any instruments made under it on or after IP completion day);
      - “assimilated direct minor legislation” means any assimilated direct legislation which is not assimilated direct principal legislation;
      - “assimilated direct principal legislation” means—

- (a) any EU regulation so far as it—
      - (i) forms part of domestic law on and after IP completion day by virtue of section 3, and
      - (ii) was not EU tertiary legislation immediately before IP completion day, or
    - (b) any Annex to the EEA agreement so far as it—
      - (i) forms part of domestic law on and after IP completion day by virtue of section 3, and
      - (ii) refers to, or contains adaptations of, any EU regulation so far as it falls within paragraph (a), (as modified by or under this Act or by other domestic law from time to time);”;
  - (b) in the definition of “enactment”, in paragraph (h), for “retained direct EU” substitute “assimilated direct”;
  - (c) omit the definition of “retained direct EU legislation”;
  - (d) in the definition of “subordinate legislation” for “retained direct EU” substitute “assimilated direct”.
- (10) In section 21(1) (index of defined expressions), in the table—
  - (a) after the entry for “Article (in relation the Treaty on European Union or the Treaty on the Functioning of the European Union)”, insert—
 

“Assimilated case law	Section 6(7)
Assimilated direct legislation	Section 20(1)
Assimilated direct minor legislation	Section 20(1)
Assimilated direct principal legislation	Section 20(1)
Assimilated domestic case law	Section 6(7)
Assimilated EU case law	Section 6(7)
Assimilated law	Section 6(7)“
  - (b) omit the entries for “Retained case law”, “Retained direct EU legislation”, “Retained direct minor EU legislation”, “Retained direct principal EU legislation”, “Retained domestic case law”, “Retained EU case law” and “Retained EU law”.
- (11) In Schedule 1 (further provision about exceptions to savings and incorporation), for “retained EU” (in each place it appears) substitute “assimilated”.
- (12) In Schedule 4 (powers in connection with fees and charges), in paragraph 7(1)(b) (power to modify pre-exit fees or charges), for “retained EU” substitute “assimilated”.
- (13) In Schedule 5 (publication and rules of evidence), in paragraph 4(5) (definition of “relevant matter” for power to make provision about judicial notice and admissibility), for paragraph (a) substitute—
  - “(a) assimilated law,”.

- (14) In Schedule 7 (regulations)—
- (a) in the italic heading before paragraph 9, for “retained EU” substitute “assimilated”;
  - (b) in paragraphs 21, 23 and 28, for “retained EU” (in each place it appears) substitute “assimilated”.
- (15) In Schedule 8 (consequential etc provision)—
- (a) in the italic heading before paragraph 1, for “retained direct EU” substitute “assimilated direct”;
  - (b) in paragraphs 3(1), 8(2), 11A(2), 11B(2) and 12(2)(b), for “retained direct EU” (in each place it appears) substitute “assimilated direct”;
  - (c) in paragraphs 7, 16(3)(b) and 45(2)(b)(i) and (ii), for “retained EU” substitute “assimilated”;
  - (d) in paragraphs 11A(3), 11B(3) and 30—
    - (i) for “retained direct minor EU” (in each place it appears) substitute “assimilated direct minor”;
    - (ii) for “retained direct principal EU” (in each place it appears) substitute “assimilated direct principal”.

*This Act*

- 2 (1) This Act is amended as follows.
- (2) In section 8 (compatibility), for “retained direct EU” (in each place it appears) substitute “assimilated direct”.
  - (3) In section 14 (general provision about powers to restate or reproduce), in subsection (9)(a) for “retained direct EU” (in each place it appears) substitute “assimilated direct”.
  - (4) In section 21 (interpretation)—
    - (a) in subsection (1), in the definitions of “enactment” and “subordinate legislation”, for “retained direct EU” substitute “assimilated direct”;
    - (b) in subsection (2), for “retained direct EU” (in each place it appears) substitute “assimilated direct”.

**Member's explanatory statement**

This new schedule makes amendments to the European Union (Withdrawal) Act 2018 and the Bill that are consequential on the renaming of bodies or types of law by NC1.

## 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.