



Sir Gary Streeter MP
Chair
Retained EU Law (Revocation and Reform) Bill
Commons General Committee
London
SW1A 0AA
scrutiny@parliament.uk

22 November 2022

Dear Sir Gary,

1. I was concerned and surprised that the Welsh Government, as one of the four governments in the UK with the responsibility for delivering the reform of retained EU law (REUL), even though we regard it as being based on an ill-judged an unnecessary piece of legislation, was not invited to give oral evidence before your committee.
2. Notwithstanding that, I am providing a written response to your call for evidence.
3. The Welsh Government has laid a [Legislative Consent Memorandum](#) on the Retained EU Law (Revocation and Reform) Bill (the Bill) before the Senedd recommending the withholding of consent. This contains our detailed analysis of the Bill and the significant concerns that we have with it. We have also published a [Written Statement](#) on the Bill and I refer the committee to those documents.
4. It is of critical importance to the Welsh Government and to the Senedd that our constitutional integrity and our devolution settlement are respected and preserved. The proposed powers to modify REUL and how they could be exercised by Ministers of the Crown within areas of devolved competence are of particular importance. We have consistently made clear in our engagement with the UK Government that any powers to amend retained EU law within devolved areas should reside, in the first instance, with the Welsh Ministers. We would certainly expect any concurrent powers in such areas to be drafted so as to include a requirement to gain the consent of the Welsh Ministers prior to their exercise by Ministers of the Crown.
5. This is a fundamental point of constitutional integrity which needs to be addressed as a critical priority. Any power that could see the UK Government legislating in a devolved area without Welsh Ministers' consent would be entirely unacceptable, both to the Welsh Government but also to the Senedd.
6. On sunset, it would be intolerable for the UK Government to seek to sunset legislation made by the Senedd. Moreover, the timescales associated with sunset in

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Mick.Antoniw@llyw.cymru
Correspondence.Mick.Antoniw@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

the Bill are harmful and will see valuable resource being redirected to dealing with thousands of legal instruments in a timescale which is totally unreasonable and unnecessary. This is at a time when we should all be focusing our efforts on the cost-of-living crisis and far more pressing issues.

7. The short timescale also raises the consequent risk of gaps in the statute book and/or other unintended consequences or errors being made. We consider that REUL should be reviewed only as required using the usual mechanisms available and in normal policy timescales, which will allow for far greater consultation, scrutiny and more effective use of resources. The sunset date should therefore be removed altogether or moved so that any work to revisit this body of law can be done over a longer and more measured timescale.
8. The power in the Bill to extend the sunset deadline is currently only provided to a Minister of the Crown. The Welsh Government has a Programme for Government and full legislative programme directly arising from relevant manifestos and the democratic mandate established by the outcome of the 2021 Senedd Election. Powers for Welsh Ministers to extend the December 2023 deadline are essential so that proper consideration can be given to reviewing and reforming REUL in devolved areas while not overriding the existing legislative programme by seeking to force a huge proportion of Senedd time and Welsh Government resource to be redirected to retained EU law. This issue is a critical signal of respect for devolution, and it is neither credible nor constitutionally appropriate for Welsh Ministers to have to ask UK Ministers to exercise this power on their behalf.
9. The Welsh Government also has concerns about the intentions of the UK Government to de-regulate. Clauses in the Bill which could see the reduction of critical protections in areas such as the environment, public health and the rights of consumers and workers are concerning. In addition, any restrictions within the Bill itself, or through its wider interaction with the UK Internal Market Act, that would prevent Devolved Governments from being able to change retained EU Law to raise standards, on the basis that this may increase the “regulatory burden” would be incompatible with devolution.
10. Finally, the Bill also provides powers to Law Officers to refer cases to the appeal courts or intervene in cases that raise issues relating to retained case law. However, as drafted, the circumstances in which Devolved Law Officers can exercise these powers of reference and intervention are far more limited than those for UK Government Law Officers. To ensure that Devolved Law Officers can protect devolved interests, these powers need to be expressed more broadly on the face of the Bill, so as to ensure that Wales’ interests can be protected even if a case seemingly relates to a reserved matter, given the potential impact on devolved areas.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style and is positioned above a short horizontal blue line.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution