



Rt. Hon. Jacob Rees-Mogg M.P.
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Pete Wishart Esq. M.P.
Chairman, Scottish Affairs Committee
House of Commons
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By email.

26 September 2022

Dear Chairman,

RETAINED EU LAW (REVOCATION AND REFORM) BILL

On 22 September 2022 the Government introduced the Retained EU Law (Revocation and Reform) Bill to Parliament in the House of Commons. I wanted to write to you directly to set out some of its principal measures as I know that you and your Committee will have an interest in the Bill.

This Bill will deliver on the Government's commitment to make it easier to repeal and replace retained EU law, enabling the country to seize further the benefits of Brexit.

After our exit from the EU, the European Union (Withdrawal) Act 2018 preserved a substantial amount of EU law in our domestic legal framework as retained EU law. Whilst this was an important bridging measure at the time, retained EU law was never intended to remain on the statute book indefinitely. Much of this EU-derived law did not face the same levels of Parliamentary scrutiny as domestic legislation and was subject to key compromises made in Brussels.

The Government conducted a review of the substance of retained EU law and catalogued over 2,400 individual pieces of such legislation on our statute book. Addressing each of these individually through primary legislation would be impractical and would take decades to complete. As much of this legislation flowed onto the statute book from the EU, without Parliament having had an opportunity to meaningfully engage with it, it is right and proper that this Bill will make it easier for it to be removed.

This Bill will apply a sunset to the majority of retained EU law on 31st December 2023, after which date retained EU law as a legal category will cease. This will open a new chapter for the UK following our departure from the EU by requiring departments to remove unnecessary or burdensome laws which encumber business and no longer meet the Government's policy objectives.

The Bill also includes a limited and targeted extension mechanism for the sunset of specified pieces of retained EU law until 2026. Should it be required, this will allow departments additional time where necessary to assess if some retained EU law should be reformed more comprehensively over a slightly longer period. Where it is most beneficial for existing policy effects to be largely preserved, the Bill will also allow for this via a process of tailored incorporation and assimilation into domestic law.

The continued existence of the principle of EU supremacy on our statute book is not compatible with our status as an independent nation with a sovereign Parliament. The Bill will deliver on the Government's 2019 manifesto promise of taking back control of our legal system post-Brexit, by making retained EU law subordinate in cases of conflict with domestic law and re-establishing the superior status of Acts of Parliament under the UK constitution.

This Bill will give domestic courts more discretion to depart from retained case law by downgrading the benchmark for departing from retained case law so courts may take account of it when making judgments but will not be required to follow it. Additionally, the Bill will allow for lower courts and the Attorney General to seek rulings from higher courts on whether to depart from retained case law.

As the retained direct EU legislation, that is subject to this Bill, came in via a secondary route so this Bill will downgrade it to the status of secondary legislation for the purposes of amendment. The Bill will accompany a major cross-government drive to reform, repeal and replace any retained EU law which is not right for the UK, supporting this Government's commitment to becoming the best regulated economy in the world.

Amending, repealing and replacing retained EU law will help us reform the UK regulatory system and will allow us to create a new pro-growth regulatory framework that puts consumers first and gives businesses the confidence to innovate and invest in Britain. These reforms will reduce excessive retained EU law which is not right for the UK and often unnecessarily burdens businesses, consequently pushing up prices and increasing the cost of living.

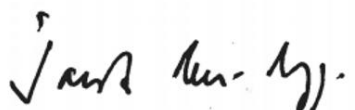
The territorial scope of the Bill will be UK-wide, enabling the Devolved Administrations to amend retained EU law in devolved competence. I have met with Angus Robertson MSP to discuss the Bill and I will look to continue this engagement. My officials and other Ministerial departments which hold retained EU law, have been working, and will continue to work, closely with the devolved governments to ensure that a common approach can be taken where powers and law have returned from the EU which intersect with policy areas that fall within devolved competence.

While the exercise of the powers to amend retained EU law may facilitate divergence, they do not intrinsically create divergence, as the Devolved Administrations already able to pass primary legislation to change any retained EU law that is within their devolved competence and the powers in the Bill do not alter this process. Any divergence will result from decisions departments and the Devolved Administrations take regarding their respective retained EU law once the Bill is enacted. We consider that divergence would be manageable through the UK Internal Market Act 2020 (UKIM) and existing Common Frameworks. The Cabinet Office will also reinforce the need to manage divergence through internal processes.

I look forward to working with you and the Committee as this piece of legislation progresses through Parliament. Finally, I would be happy to meet with the Committee Members to discuss the Bill. If this is of interest to you or Committee members, please contact my private office who will be able to invite you to an appropriate event.

With every good wish.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "James Murray". The signature is written in a cursive, slightly slanted style.