

Written evidence submitted by the RSPCA (REULB06)

Summary

There are 44 animal welfare laws that have come across under the European Union (Withdrawal) Act 2018 that need to be filtered and assessed or these will no longer apply - these include the battery hen ban, cosmetics testing on animals and the banning of growth promoters in farm animals. The RSPCA has three major concerns with the Bill. Firstly it has a very tight time period to assess all these laws and could see laws being lost due to time issues. Secondly the majority of the 44 laws are devolved but it is unclear as to how Scottish and Welsh Governments can ensure that any laws with reserved powers are carried over and not lost. Thirdly the filtering process to ascertain if a retained EU law should be maintained is unclear but Defra, with responsibility for 570 laws which contain the UK's high animal welfare and environmental standards, has the hardest task. Budgetary reductions now about to be imposed will make this task more difficult.

1. The RSPCA is pleased to respond to the Bill Committee on the Retained (EU) Law (Revocation and Reform) Bill. The RSPCA is the oldest and largest animal welfare organisation in the world and writes the standards used by RSPCA Assured, the UK's only animal welfare assurance scheme. RSPCA Assured accounts for 100% of salmon production, around 51% of egg production and 23% of pig production in the UK. The RSPCA undertakes around 85% of enforcement effort under the Animal Welfare Act 2006 in England and Wales for animal welfare investigations and prosecutions. The RSPCA set up Eurogroup for Animals in 1980 to act as its European coordination office to campaign for and influence European legislation on animal welfare. Since 1980 Eurogroup for Animals has acted as the Secretariat of the Intergroup for Animal Welfare in the European Parliament and has worked on and influenced all 44 pieces of animal welfare legislation that are part of the acquis and were transferred over to UK law under the European Union (Withdrawal) Act 2018.
2. All EU derived legislation was carried over into UK legislation by a series of primary or secondary laws depending on whether they were Regulations, Directives or Decisions. When the UK left the EU on 31st December 2020 all the animal welfare legislation in Table 1 had been carried over and was only amended from a technical perspective, such as deleting language relating to the European Commission. Legislation was transferred under the principle that it was part of the UK's legislative library, in some cases for nearly 50 years, and was therefore relevant and important to maintain. The Retained EU Law (Revocation and Reform) Bill works in the opposite principle. It deletes all legislation that has been transferred across unless it is proven to be useful. It also does so within a prescribed timetable and without any clear vetting or transparent audit process.
3. There are 2,417 different laws that are caught by this process of which 570 are managed by Defra¹. Defra is responsible for the largest number of EU derived laws and so has the greatest burden in sifting and assessing these laws. 44 of these laws promote the welfare of animals. Thirteen of the 44 were Directives that had been implemented into UK legislation subsequent

¹ <https://public.tableau.com/views/UKGovernment-RetainedEULawDashboard/REULMap?%3AshowVizHome=no>

to their adoption and 31 were Regulations and Decisions. Legislation was transferred across on a piecemeal basis between 2018 and 2020 and it is fair to say that the quick time period did result in technical small legislative mistakes being made, some of which were correct in the past two years. Ironically this two time period is longer than the one prescribed under this Bill.

4. As the EU has competence amongst Member States on trade issues, the majority of our laws on the welfare of farm animals, animals used in science, and wildlife - around 80% of all major animal welfare laws - are EU derived. These could all be lost under this revocation and reform process. The only main body of legislation on animal welfare that was caught by the subsidiarity principle, and was deemed to be under Member State competence, was the legislation portfolio covering domestic animal cruelty and welfare (eg the Animal Welfare Act 2006). This is why companion animals are the least regulated area in EU derived laws. There are only five laws, all relating to trade issues. The majority of these laws manage commercial and non commercial movement of dogs and cats and there is one import ban on products made from dog and cat fur.
5. The largest body of legislation concerns farm animals with 18 relevant EU laws adopted. There are five laws setting standards on the way farm animals are reared and produced. There are species specific laws for laying hens, veal calves, meat chickens and pigs. There is also legislation covering consumer information, such as mandatory labelling of the provenance of eggs and beef, the labelling of some poultry meats, and country of origin legislation regarding where certain meats and animal products have been produced. One law sets rules on the live transport of animals and a further one on how animals must be killed/slaughtered. Certain veterinary products have been prohibited with bans on the use of hormones in cattle, including BST, which can have a negative impact on animal welfare.
6. The twelve laws covering wildlife fall into two areas - those part of international treaties and those not. The latter include the law to prohibit the import of wild caught birds, implemented in 2005 and responsible for the dramatic drop in wild caught birds into the UK. There is also an import ban on seal products due to welfare concerns on the manner in which these animals are kept and killed. There is legislation setting standards on the management of wildlife, covering their hunting, trapping and protection of habitat and legislation on the keeping of animals in zoos.
7. The use of animals in research and testing is regulated by nine different laws, covering the breeding, care and use of animals for scientific purposes, the transport of animals, the use of animals to test chemicals, biocides, plant protection products and novel foods, and the prohibition of the use of animals to develop or test cosmetic products as well as on the marketing and import of cosmetic products that have been newly tested on animals elsewhere in the world.

What is the RSPCA's position?

8. The RSPCA's concerns on the Retained EU Law (Revocation and Reform) Bill fall into the following six areas:
9. *Impact on animal welfare:* The first EU animal welfare law was passed in 1974, one year after

the UK joined. Over the subsequent 46 years the UK played a leading role to negotiate the other 43 animal welfare provisions. These brought in some of the most totemic and important changes in animal welfare such as the prohibition of the conventional battery cage for laying hens, the sow stall ban, the veal crate ban, the end of cosmetics testing on animals and the banning of GMOs and cloned animals. EU retained laws brought in standards and protection for the management of wild animals, stopping the imports of wild caught birds and ending the use of growth promoters in farming. These could all be at risk under this process.

10. *Impact on international obligations:* Seven of the 44 inherited EU laws implement international agreements that the UK is party to and needs to adhere to their regulations and standards. These include six Council of Europe Conventions, on the management of wildlife, international transport, slaughter of farm animals, keeping of farm animals, 'protection' of animals used in scientific procedures and the conservation of European wildlife and natural habitats. It also includes the CITES Convention that manages the international trade in endangered species. The UK has international obligations to these Conventions.
11. *Time period:* Clause 1 of the Bill sets out that the filtering process to assess the legislation will stop on 31 December 2023. Clause 2 allows for it to be postponed no later than 31 December 2026. Clause 15 gives the powers to revoke EU legislation. As Defra has 570 different laws and there are only around 170 parliamentary sitting days before the first deadline this would require Parliament to consider over three pieces of legislation a day to meet that deadline. This is clearly not feasible and could result in relevant legislation being lost due to time constraints and lack of proper scrutiny. There have been indications at 2nd Reading that the Government will consider extending the sunset clause. The RSPCA would support this as an interim measure, as it believes that it is practically impossible to filter and assess all the legislation in the allocated time frame and this risks good legislation being lost.
12. *Impact on Devolution:* As the table at the end of this briefing shows, the vast majority of these pieces of legislation contain animal welfare measures that are devolved. This is particularly true for farming where all 17 laws are devolved and for wildlife where five of the 11 laws are devolved. For those that are reserved, such as the seal fur and cat and dog fur import bans, the Welsh and Scottish Governments have confirmed they do not wish to change these laws.
13. Clause 2 of the Bill states the measures do not apply to any law specified in regulations from a national authority but it is not clear from the Bill how the UK Government will undertake this process or for measures that are reserved, such as the import ban on dog and cat fur, how they will ensure that the views of the Scottish and Welsh Parliaments are taken into account as the process of filtering the legislation occurs.
14. Clause 13 allows the Scottish and Welsh Parliaments to restate any secondary legislation but it is not clear if devolved authorities would have to restate all the 23 animal welfare laws as stated above or the laws would fall or what would happen to those primary pieces of retained EU law such as the dog and cat import ban or the CITES Regulation.
15. *Filtering Process:* The Minister of the Crown has no limits under this Act in their power to bring in Regulations that are consequential from the Act (Clause 19). The process of tabling

- secondary legislation is clearly laid out under Schedule 3 but there is no clear process laid out for how each individual Ministry will approach the pieces of legislation that come under it. As Defra has 570 relevant pieces of legislation, 44 of which are relevant to implementing our animal welfare and health standards, a clear and transparent process is needed and followed.
16. The Government has stated that it has a Dashboard to monitor the retained, amended and discarded legislation². However the Dashboard is untransparent and supplies little information as to the status or process of the filtering programme. Whilst legislation has been designated to one of three categories (Unchanged, Amended or Repealed) there is no tab to state if the legislation has even been looked at yet or the date that it has been assessed. This would give clarity on the process and how far that process has been completed. At present the vast majority, over 90% of Defra legislation, is designated as Unchanged, but this may be because it has yet to be assessed and filtered.
 17. The only laws in the Dashboard that are designated as Repealed are those that are irrelevant now the UK has left the EU. For instance Regulation 2015/288 is repealed³. However, as this Regulation was about the time period for eligibility of financial assistance from the European Maritime and Fisheries Fund, and applied from December 2014 for a year, its legitimacy and application expired six years ago. Indeed as part of Brexit, the UK is of course no longer subject to the Common Fisheries Policy and provisions on fishery management have been superseded by the Trade and Cooperation Agreement. If the purpose of the Bill is to discard such pieces of legislation, which were no longer relevant, then the RSPCA's fears around the impact of the Bill on existing good and useful legislation setting animal welfare standards are unfounded. But the Government has not made this clear and by setting a sunset clause has exacerbated the problems as all retained legislation will fall, even if it served a useful purpose. Such legislation could have been repealed anyway without the need for this Bill.
 18. *Impact on the Trade and Cooperation Agreement (TCA)*: The TCA was signed by the UK Parliament in December 2020 and ratified in April 2021⁴. It contains areas where the UK can diverge from EU standards, e.g. farm standards. It also has a number of areas where mutual recognition of standards is either preferred to improve animal welfare or a loss of that level playing field would impact free movement of animals. One small example is the lowering of the UK's status under the movement of pets regulations since it left the EU, and its negative consequences on pet movement and pet welfare (e.g. requiring anyone who travels with their dog on holiday to the EU needing a new pet passport each time they travel or the free movement of guide dogs to Northern Ireland being stopped). A larger area is the mutual recognition of data and testing requirements for chemicals under REACH which could, if the UK diverges from the EU's system of approval, result in more animal testing in the UK to prove safety of the chemical products brought to market and exported to the EU under the REACH.
 19. Although the Level Playing Field provisions in the TCA do not apply to animal welfare provisions, they do apply to environmental and climate change measures such as the

² <https://www.gov.uk/government/publications/retained-eu-law-dashboard>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0288&from=EN>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982648/TS_8.2021_UK_EU_EAEC_Trade_and_Cooperation_Agreement.pdf

management of impacts on the environment from agricultural or food production. Notably this includes the use of antibiotics and decontaminants. So any change to the use of antibiotics under the Bill could impact on the TCA provisions. Another example is on SPS provisions such as on the use of growth hormone promoters. This legislation (the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations⁵ would fall under the Bill. The provisions about allowing in meat treated with growth promoters has become an important issue for the UK in pursuing trade deals with countries that use these promoters such as Canada and Mexico. The UK has always maintained that such meat cannot enter the UK market as there is legislation to stop this happening. The Bill has the powers to revoke this legislation.

20. This also has an impact on the TCA. The UK and EU have different approaches to the use of growth promoters. Whilst the EU applies a precautionary approach to their use and prohibits their use without scientific proof, the UK has previously voted against the ban on the use of beef growth promoters whilst a EU member. The TCA makes clear that the UK and EU should not create additional authorisation requirements for such products and losing the bans under the Bill would certainly go against the TCA.
21. It would also stop exports of meat to the EU and Northern Ireland as this would contravene Council Directive 96/22/EC which bans the import, sale and use of meat contaminated with substances that have a hormonal action. If this legislation falls under the Bill and the UK agrees FTAs with Canada and Mexico who use growth promoters, the UK would be unable to demonstrate that it is not importing such meat from those third countries. As the EU would not be certain of the audit trail of any beef or porkmeat it would have to prohibit pig and beef imports from the UK.
22. This example also has implications on the devolved Governments. The Scottish and Welsh administrations have been clear that they have no wish to allow the use of growth promoters or the marketing of products made from them.
23. Another example is the famous chlorine chicken issue. Current EU controls on surface decontamination of poultry (Regulation (EC) 853/2004) are retained through the European Union (Withdrawal) Act 2018 and have been carried over into UK law through The Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019. This maintains the status quo, whereby any substances for surface contamination must be approved by the appropriate authority. No products, other than potable water, are currently approved in the EU to decontaminate poultry carcasses and this remains the case in the UK. Removing these Regulations, which could occur under this Bill, would contravene the TCA.
24. Finally the RSPCA is unsure what problem this Bill is trying to solve. At 2nd Reading it was apparent from interventions and the Government position that the Bill was about “controlling our laws”⁶ but these laws have already been transferred across and so can be changed and amended already. Parliament is now sovereign in this aspect under the EU (Withdrawal Act) 2018 and the European Union (Withdrawal Agreement) 2020. This Bill carries the danger that the UK’s legislative base will not comply with the TCA particularly, as shown above, legislation may be accidentally lost by the process due to time constraints that would be directly contradictory to the UK’s obligations in the TCA.
25. The Government has stated that this Bill is about improving our EU derived legislation. However the Government can already achieve this objective. For instance the Kept Animals Bill which entered the House of Commons in 2021 includes a ban on live exports of farm animals and measures to stop the import of puppies and dogs with cropped ears. None of

⁵ <https://www.legislation.gov.uk/uksi/2015/787/contents>

⁶ [https://hansard.parliament.uk/commons/2022-10-25/debates/246DE276-1887-475F-8016-DB81309C6D81/RetainedEULaw\(RevocationAndReform\)Bill](https://hansard.parliament.uk/commons/2022-10-25/debates/246DE276-1887-475F-8016-DB81309C6D81/RetainedEULaw(RevocationAndReform)Bill)

these measures would have been possible when the UK was a member of the EU.

Table 1 Summary of the 44 pieces of legislation that have been adopted at the EU level

	EU Legislation <i>Directives</i>	International agreements	Devolved?	Main goals
Farm Animals <ul style="list-style-type: none"> ● General protection ● Laying hens ● Meat chickens ● Veal calves ● Live transport ● Pigs ● Slaughter ● Bans on BST ● Farm subsidies ● Country labelling ● Poultry meat ● Beef labelling ● Egg labelling ● Organic Production ● Horse identification ● Feed and food law 	98/58 1999/74 2007/43 2008/199 1/2005 2008/120 2016/336 1099/2009 1305/2013 1307/2013 1169/2011 543/2008 566/2008 1097/90 5/2001 834/2007	 OIE Guideline OIE Guideline OIE Guideline	Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes	Baseline standards on welfare of farm animals Prohibits battery cage for laying hens Minimum standards on chickens Prohibits veal crate and white veal Maximum transport times for farmed animals Prohibits sow stalls Standards on slaughter of farmed animals Stops use of growth promoting hormones Agriculture Act 2020: animal welfare schemes Labels products on country of origin Sets terms for poultry labelling Sets terms for beef labelling Mandatory labelling of eggs Sets standards for organic food production Identification of equines Controls on the production of food and feed
Wildlife <ul style="list-style-type: none"> ● Trade in endangered species ● Whaling ● Habitat protection, hunting and trapping ● Wild birds protection ● Driftnet bans ● Seal import ban ● Zoos ● Traps management 	338/97 812/2004 92/43, 82/72 2009/147 1239/98 2015/1850 1999/22 3254/91 139/2013 1143/2014	CITES IWC Bern Convention Bern Convention Bern Convention	No No Yes Yes No No Yes Yes No No Yes Yes	Implements CITES to manage and regulate the trade in endangered species and products Bans trade in whale products Sets rules on wild animal protection, humaneness of hunting and trapping animals Protects and regulates hunting of wild birds Bans use of driftnets to protect marine life Bans seal products due to inhumaneness Licensing and management of zoos

<ul style="list-style-type: none"> ● Wild bird import ban ● Invasive alien species ● Fur labelling 	1007/2011			<p>Regulates use of traps for wild animals Stops imports of wild caught birds Prevents import & spread of alien species</p> <p>Labels fur products</p>
<p>Animals in science</p> <ul style="list-style-type: none"> ● The use of animals in research, testing ● EC party to ETS 123 ● Updates ETS 123 ● REACH ● Plant Protection Products ● Biocidal Products ● Cosmetics ● Novel foods 	<p>2010/63</p> <p>1999/575</p> <p>2003/584</p> <p>1907/2006</p> <p>1107/2009</p> <p>528/2012</p> <p>1223/2009</p> <p>258/1997*</p>	<p>OIE Guideline</p> <p>Council of Europe</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p>	<p>Regulates use of animals in laboratories for research, testing and education</p> <p>Makes UK member of Council of Europe's Convention on the use of animals in laboratories</p> <p>Sets rules on testing using animals for chemical production and use</p> <p>Sets rules using animals for biocidal/plants</p> <p>Bans the use of animals in testing for cosmetics and the marketing of such products</p> <p>Regulates the production of GMO animals</p>
<p>Pets</p> <ul style="list-style-type: none"> ● Non commercial trade dogs, cats, ● Pet Imports ● Commercial trade ● Imports on dog and cat fur 	<p>576/2013,</p> <p>577/2013</p> <p>2013/31</p> <p>92/65</p> <p>1523/2007</p>			<p>Manages the cross border movement of pet cats and dogs</p> <p>Limits the commercial trade in cats and dogs</p> <p>Bans the import of dog and cat fur and its sale</p>