

Written evidence submitted by Consumer Scotland (REULB13)

Background

1. Consumer Scotland is the statutory body for consumers in Scotland. Established on 1 April 2022 under the Consumer Scotland Act 2020, we are independent of government and accountable to the Scottish Parliament.
2. Consumer Scotland uses data, research and analysis to inform our work on the key issues facing consumers in Scotland. As the statutory body for consumers we work with business, the public sector and consumer champions to put consumer rights, needs and interests at the heart of markets, services and policy.

Executive Summary

3. This response provides the views of Consumer Scotland on the Retained EU Law (Revocation and Reform) Bill. The Bill would completely overhaul a body of UK domestic law known as “retained EU law” (REUL).
4. Consumer Scotland wishes to highlight the importance of a number of pieces of domestic law which form part of REUL. These laws form an important part of the consumer protection framework across the UK. The Bill comes at a time when levels of consumer vulnerability are high, placing consumers at an increased risk of potential harm or detriment.
5. Consumer Scotland recognises that there are valid and legitimate reasons for retained law being reviewed, rationalised or consolidated into a more coherent format. If such a process is conducted effectively then this has the potential to bring benefit for consumers, in terms of clarity, coherence and consistency.
6. However, it is important that there is sufficient opportunity for due diligence in this review. The UK Government should conduct detailed work in a considered and effective manner to ensure that consumer protections are optimised. The scale of the task that the REUL (Revocation and Reform Bill) seeks to address is not to be underestimated, with as we understand it, more than 2,000 articles falling within the scope of the Bill. Given this, we are concerned that the current proposed timetable for reviewing this body of law, with all REUL being subject to a sunset date of December 2023, may result in protections being inadvertently overlooked or weakened.
7. The protections currently contained within REUL are important to consumers, enabling them to have trust in markets and to obtain remedies when things go wrong. Without these protections, there is a risk that markets will not operate in a fair and transparent manner, resulting in poorer outcomes for consumers.

8. For this reason, we recommend an extension of the time frame for review, until there has been sufficient time for full and thorough analysis of the current regulatory regime and the extent to which it meets the needs and aspirations of both current and future consumers.

Current Consumer Protections

9. The current body of REUL contains protections which are important to consumers and which help to safeguard their rights and establish standards for the manufacture, sales and safe use of consumer goods. Protections include, amongst others:
 - Design and Health and Safety requirements for various goods, including aerosols, chemicals and other hazardous goods, cosmetics and electrical goods
 - Labelling requirements including energy labelling for appliances, allergen labelling for foodstuffs and labelling relating to product origin
 - Provisions relating to animal and plant health, food safety, disease controls and biosecurity as well as provisions relating to GMOs
 - Consumer protections from unfair trading and aggressive and misleading sales practices together with the right to seek redress where products are defective
 - Cancellation rights in relation to certain consumer contracts, such as distance selling
 - Consumer rights to access Alternative Dispute Resolution in relation to certain contractual disputes
 - Provisions setting out the requirements for weights and measures of goods
 - Provisions relating to passenger transport, including vehicle safety, licensing and passenger compensation
 - Environmental measures including waste management, emissions and habitat protections
 - Laws relating to certain cross-border disputes.

Risk of Consumer Detriment

10. The UK Government has conducted various studies examining consumer detriment, including most recently BEIS' Consumer Protection Study 2022 which asked respondents to consider their experiences of consumer detriment during the 12 months prior to April 2021.
11. This study found that 72% of Scottish consumers had experienced detriment.¹ This was similar to England, but statistically higher than Wales and Northern Ireland. Within Scotland, and similar to the rest of the UK, detriment was experienced to varying degrees across market clusters, ranging from 75% of detriment experienced with products bought or used in the "fast moving retail" cluster, to 12% in the "other services" cluster.² Overall for Scotland, detriment was more commonly experienced in relation to services (60%) than goods (46%).³

¹ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/consumer-protection-study-2022) – Respondent Level Table R2

² [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/consumer-protection-study-2022) – Respondent Level Table R4

³ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/consumer-protection-study-2022) – Respondent Level Table R5

12. The study highlighted that detriment can occur repeatedly. Looking at the average number of times a consumer experienced detriment, the study found that multiple instances were common. Of the Scottish consumers that experienced detriment, 80% experienced more than a single incident. This finding was similar across the countries within the UK.⁴
13. The impact of detriment on consumers was also highlighted by the study, which noted that while the most common total time spent by Scottish consumers dealing with detriment incidents was 1 hour to under 4 hours (31%), 57% spent longer than this, with 33% spending more than 12 hours, and 19% more than 24 hours.⁵
14. Detriment also cost Scottish consumers significant sums of money, with 75% of consumers experiencing direct costs of more than £100, 43% more than £500, 23% more than £1,500 and 11% more than £5,000.⁶ It should be noted that these figures may be affected by the higher incidence of travel related detriment occurring during the Covid-19 pandemic.
15. Finally, detriment can have an emotional impact on consumers. When asked to consider the extent to which the detriment incidents they had experienced had affected them emotionally Scottish consumers reported:
 - 50% had felt anxious to some extent or more as a result of detriment incidents⁷
 - 51% had felt helpless to some extent or more as result of detriment incidents⁸
 - 60% had felt upset to some extent or more as a result of detriment incidents.⁹
16. Protecting consumers from experiencing detriment, or reducing their risk of experiencing it, is desirable in itself. In addition, beyond the initial benefit of reduced detriment, protecting consumers can further improve the operation of markets, as consumers who are confident that they have some protection may be more willing to engage in markets by, for example, switching to new suppliers or signalling problems through complaints.¹⁰ An increased level of consumer trust in businesses, markets and governments is likely to result in consumers feeling more confident in spending money on goods and services, contributing to overall levels of economic growth.¹¹
17. Analysis of the nature of the detriment problem experienced highlights that detriment often occurs because of common consumer problems that are covered by the

⁴ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-respondent-level-table-r6.pdf) – Respondent Level Table R6

⁵ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-respondent-level-table-r16.pdf) – Respondent Level Table R16

⁶ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-respondent-level-table-r18.pdf) – Respondent Level Table R18 – costs are total direct costs experienced by consumers across the detriment experiences (up to 3 per consumer), and include the initial cost of the product

⁷ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-detriment-level-table-db17.pdf) – Detriment Level Table DB17

⁸ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-detriment-level-table-db18.pdf) – Detriment Level Table DB18

⁹ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-detriment-level-table-db20.pdf) – Detriment Level Table DB20

¹⁰ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106482/consumer-protection-study-2022-connecting-trust-and-economic-growth.html)

¹¹ <https://www2.deloitte.com/global/en/insights/economy/connecting-trust-and-economic-growth.html>

consumer protections contained within REUL. As shown below, the patterns observed for Scottish consumers were similar to those across the rest of the UK.¹²

Nature of the problem experienced by consumers	% Scottish detriment incidents encountering the problem (note that percentages do not sum)¹³
Poor quality	32%
Not usable	24%
Complete failure to provide	15%
Problems with delivery	17%
Misleading price	8%
Misleading information	13%
Unfair or unclear T&C	5%
Warranty and guarantees not honoured	5%
Other	24%

18. While not all Scottish consumers sought resolution from the seller or provider as a result of a detriment experience, of those that did, many found that sellers or providers took action to address the incident – only in 18% of incidents was no resolution offered.¹⁴ While it is not possible to attribute this to the consumer protections enshrined in REUL, it should be noted that some of the resolutions are specifically included in consumer protection legislation. For example, the Consumer Protection From Unfair Trading Regulations protect consumers in situations where the product does not live up to false advertising claims.

Resolution	% Scottish detriment incidents receiving the resolution (note that percentages do not sum)¹⁵
Restored or fixed the service/item	46%
Apologised for the inconvenience	41%
Explained the problem	18%
Offered a full refund	28%
Offered a partial refund	9%
Promised a refund or to fix the problem or something else, but not yet provided it	17%

¹² [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/consumer-protection-study-2022-detriment-level-table-db4.pdf) – Detriment Level Table DB4

¹³ Percentages do not sum as each incident may have involved multiple problems

¹⁴ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/consumer-protection-study-2022-detriment-level-table-db8.pdf) – Detriment Level Table DB8

¹⁵ [Consumer protection study 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/consumer-protection-study-2022-detriment-level-table-db8.pdf) – Detriment Level Table DB8. Percentages do not sum as each incident may have involved more than one resolution

Provided a one-off discount or longer-term price reduction	4%
Reviewed/changed the contract conditions	5%
Provided a voucher or store credit	8%
Provided compensations for extra costs or inconvenience incurred	5%
Other	7%
None	18%

19. The evidence above highlights that where consumer detriment occurs, it can have significant impacts on consumers in relation to time, money and emotional wellbeing. Both the types of detriment experienced, and the types of resolution obtained include incidents that existing consumer protection law, enshrined in RUEL, covers. The review of REUL should ensure that consumers remain at a minimum, as well protected from detriment as the current legislation provides, and that their routes to resolution of detriment are undiminished.

Consumer Vulnerability

20. Consumers in Scotland, in common with those across the UK, are in the midst of unprecedented change. They are facing a cost-of-living crisis. The prices of consumer goods are rising rapidly with real incomes predicted to fall by 2%.¹⁶ The rate of inflation has increased significantly, reaching 10%¹⁷, the highest level for forty years. This has largely been driven by an unprecedented surge in oil and gas prices which has fundamentally changed the GB energy market. Consumers face substantial increases in fuel bills, and while Government support packages will reduce the size of price increases, this will not be sufficient for those most in need of help.

21. This impact on people's incomes is unfolding in the wake of the coronavirus pandemic which has affected jobs, income and services, bringing uncertainty and sometimes detriment. This combination of circumstances will cause significant detriment, negatively impacting people's quality of life and decreasing households' financial resilience. These financial pressures are not spread equally. Across the UK, consumers who are female, younger, unemployed, working in the gig economy, renters, or in an ethnic minority group, are more likely to have low financial resilience or be in financial difficulty.¹⁸

22. Analysis by the Financial Conduct Authority (FCA) showed that in May 2022, 26% of Scottish adults had low financial resilience and 8% were in financial difficulty.¹⁹ Low financial resilience is one of the key drivers of vulnerability, with other drivers being

¹⁶ [The Living Standards Outlook 2022 • Resolution Foundation](#)

¹⁷ [Inflation and price indices - Office for National Statistics \(ons.gov.uk\)](#)

¹⁸ Financial Lives 2022 survey: insights on vulnerability and financial resilience relevant to the rising cost of living

¹⁹ Ibid

health, life events, resilience and capability. The FCA analysis highlights that in May 2022, 47% of UK adults showed 1 or more characteristics of vulnerability, up from 46% in February 2020 – this equates to an increase of 0.9 million adults from 24.0 million to 24.9 million over that period.

23. Against a backdrop where almost half of UK consumers have at least one potential driver of vulnerability, it is important that robust consumer protections remain in place. Given the significant and complex pressures currently faced by consumers across the UK, it is vital that the consumer protection regime continues to safeguard their interests. We have significant concerns that the current timetable does not allow for a robust and informed assessment of the needs of consumers, and in particular, the needs of those consumers in vulnerable circumstances. We consider that a longer timetable for review would allow for a proper assessment of consumer needs, and of any mitigations required to be put in place to reduce risk of detriment, drawing on up to date information and intelligence from consumer bodies, advice and enforcement agencies.

Conclusion

24. Consumer Scotland recognises the rationale for the review, streamlining or consolidation of REUL into a more coherent form. However, these protections allow consumers to spend money safely, to have confidence in markets, and to have the ability to seek remedies when things go wrong. It is important that the review maintains or enhances these characteristics of a healthy consumer focused economy.
25. The nature and scale of the task of reviewing and updating REUL is substantial. These regulations are complex and have been in place for many years. We consider that there are significant consumer risks in undertaking such a review in the timescale currently proposed (that is, with a sunset clause of December 2023). This timetable will make it challenging for the UK Government to undertake the required due diligence in making important legal changes.
26. We are concerned that the pace of the review result in consumers being at greater risk of harm or having reduced levels of protection. For this reason, we strongly encourage the government to provide assurance that consumer interests and protections will be maintained. We recommend an extension of the time frame for review, to ensure there has been sufficient time for full and thorough analysis of the current regulatory regime and the extent to which it meets the needs and aspirations of both current and future consumers, and the adoption of appropriate new statutory provisions that protect and serve consumers.

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