

Retained EU Law Bill – written evidence for House of Commons’ Bill Committee from The Wildlife Trusts

The Retained EU Law (REUL) Bill risks weakening vital protections for nature, when more than ever we need stronger legislation and urgent action.

It puts at risk hundreds of laws that protect our nature and wildlife, as well as regulations to safeguard public health, working conditions, and create a sustainable economy. It represents a push for deregulation at the expense of common sense.

For the environment, this bill detracts resources from the real problems. During a nature and climate crisis, we must be taking urgent action to reverse the decline in biodiversity and reduce greenhouse gas emissions. Of course, effective legislation is part of tackling this problem, and it will be important to strengthen and improve existing laws that provide vital environmental protections – whether they originate from the EU or not. We have no objection to a sensible, consultative process that examines, updates and improves environmental laws, but when we need nature to be actively recovering it is not the time for reassessing and revoking the entire suite of environmental legislation that the UK helped to develop with the EU.

The UK has set ambitious targets for nature’s recovery, from its aim to protect 30% of land and sea for nature by 2030, to its legally binding commitment to halt the decline in species abundance by 2030. Passing the REUL Bill, which explicitly prevents replacement legislation being strengthened, will make reaching these challenging targets virtually impossible.

The REUL Bill requires more than 2,400 pieces of legislation to be removed from the statute book. It sets out broad powers and short timescales for the Government to do this. There is no indication of which laws will be lost and which will be assimilated into domestic legislation, with or without changes.

Amongst these is a huge proportion of environmental law. Defra has the most REUL of any government department. The Government’s REUL Dashboard identifies 570 pieces of legislation for Defra. However, this is incomplete and there are hundreds more to be added to this dashboard.

Our concerns

The Wildlife Trusts have four key concerns about the REUL Bill and its impact upon our ability to protect the environment:

Timing

The task of assessing and dealing with each piece of REUL is vast, especially for Defra. To date, only three FTE officials have been working on REUL at Defra, [according to a September parliamentary question](#). At the same time, departments are being told to ready themselves for significant budget cuts in response to the current economic situation.

Assuming work is not started until the REUL Bill gets royal assent, it is not feasible to assess and deal with all 570-plus pieces of REUL before the sunset deadline of 31st December 2023. The impossible timescale means that important legislation is likely to be overlooked or lost by default. Whilst some laws will be given a later sunset of 2026, there is no clarity on which legislation will be given this extension or how this decision is made.

The tight timescale means we risk seeing replacement legislation written in haste and poorly executed, leading to lack of clarity that then has to be challenged through the courts. We could also

see greater uncertainty as case law rules and principles that originate in the EU fall away, resulting in increased legal challenges through Judicial Review, or complaints to the Office for Environmental Protection.

Far from removing red tape, the REUL Bill is set to create extra work and uncertainty for both industry, conservation organisations, and Whitehall. With Defra unable to meet its recent legal deadline for publishing targets under the Environment Act due to the capacity of reviewing the “significant public response”, The Wildlife Trusts are concerned that assessing over 570 pieces of REUL before the sunset deadline of 31st December 2023 will be impossible.

Lack of democratic accountability

The REUL Bill undermines democratic processes. It proposes wholesale change to the statute book with no parliamentary scrutiny, enabling ministers to repeal, revoke, replace or amend any REUL without explanation under Clause 15. It is unclear whether departmental Ministers have the final say or whether this sits with BEIS (as the holder of the Bill). All amendments and replacements to REUL will be dealt with without parliamentary debate, involvement of the House of Lords, or a requirement for consultation with advisory bodies or expert stakeholders.

This Bill will therefore vastly broaden the powers and discretion of ministers while restricting the role of parliamentarians, devolved authorities and external stakeholders in reviewing legislation. Without proper oversight and scrutiny of ministers, The Wildlife Trusts do not have confidence that this will lead to better outcomes for the environment.

Furthermore, Clause 15 lists restrictive conditions that any replacement legislation should meet, including that it should not “increase the regulatory burden” or impact profitability. This provides for a clearly deregulatory direction of travel and will make it impossible to quickly replace legislation with higher environmental ambition.

The REUL Bill also undermines the devolved powers of Wales, Scotland and Northern Ireland, by making decisions in Westminster on areas, like the environment, which are usually devolved. Both the Welsh and Scottish Governments have written to the UK Government to express their concerns in this area.

Threat to nature

The loss of environmental REUL would impede the UK’s ability to meet its legally binding target to halt the decline in the abundance of species in England by 2030, as set out in the Environment Act (2021). We are particularly worried about the fate of the below pieces of EU-derived legislation:

- The Conservation of Habitats and Species Regulations 2017, known as the Habitats Regulations
- The Conservation of Offshore Marine Habitats and Species Regulations 2017
- Environmental Assessment of Plans and Programmes Regulations 2004
- Town and Country Planning (Environmental Impact Assessment) Regulations 2011
- Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 Regulations

The UK Government has claimed there is no intention to damage the environment with the REUL Bill. Given the recent rhetoric on removing environmental red tape and “burdens”, we need the Government to offer concrete answers and details in this area – we should not be asked to simply trust the Government to do the right thing for nature.

The Wildlife Trusts believe these attacks are aimed at the Habitats Regulations in particular and that the UK Government may seek to weaken and amend these through the REUL Bill process. The Habitats Regulations are intricately connected to other fundamental environmental legislation, such as the Wildlife and Countryside Act and the Marine and Coastal Access Act. If the Habitats Regulations are revoked, elements of these other laws will no longer work, leading to loss of environmental protections.

We fear that the undoing of the Habitats Regulations, through the REUL Bill, could result in:

- Loss of protections for a list of 50 native species specifically protected under this law – this includes the common otter, dormice, dolphins, fen orchids and shore dock
- Protections lost for other species protected from killing under the Habitats Regulations and not protected by other legislation – this includes seals and cetaceans
- Loss of the requirement for Habitats Regulations Assessment in the planning process, making it impossible to deliver Biodiversity Net Gain as mandated in last year's Environment Act
- No requirement to mitigate the loss of habitat during development, threatening the survival of some species
- Loss of the Special Areas of Conservation (SAC) and Special Protection Area (SPA) designations which cover vital wildlife sites in the UK
- Less incentive to seek strategic solutions to the damage that nationally important nature sites are suffering

Risk to international reputation

This self-inflicted assault on nature will severely damage the UK's standing as an environmental leader on the world stage. With both climate talks at COP27 and biodiversity negotiations at COP15 taking place before the end of the year, the UK's work pushing for "high-ambition" outcomes will be undermined. How can we ask other countries, many of whom are less wealthy than the UK, to take serious action to protect the environment when we are not doing the same at home?

Undoing the Habitats Regulations through the REUL Bill will mean ignoring our duty to protect species that aren't just threatened in the UK, but worldwide. Biodiversity doesn't care about borders and we must play our part in securing the future of internationally rare species. Loss or weakening of the Habitats Regulations could see further declines in biodiversity and affect the UK Government's ability to meet its own and international nature targets. It could also leave gaps in compliance with Bern and Ramsar Convention duties.

What would The Wildlife Trusts like to see?

At committee stage, we encourage MPs to oppose the principle and content of the REUL Bill. We ask you to:

- Urge the government to withdraw the REUL Bill – we have no objection to a sensible, consultative process that examines, updates and improves environmental laws, but that is not what this bill offers.
- Reassert Parliament's role on the oversight, scrutiny and passing of legislation, so that amendments to or removal of REUL take place under conventional Parliamentary procedures.
- Insist the government instead prioritises its environmental commitments in the Environment Act 2021, including the actions and policies necessary to deliver nature's recovery by 2030.