

**Written evidence submitted by the Independent Monitoring Authority for the  
Citizens' Rights Agreements ("the IMA") (REULB30)**

**The Retained EU Law (Revocation and Reform) Bill Committee**

Dear Chair,

**Written evidence on the Retained EU Law (Revocation and Reform) Bill ("the Bill").**

I am pleased to submit written evidence to the Committee on behalf of the Independent Monitoring Authority for the Citizens' Rights Agreements ("the IMA") in order to assist its scrutiny of the Bill.

**Role of the IMA**

1. The IMA is an independent body that makes sure the rights of EU and EEA EFTA citizens living in the UK and Gibraltar are upheld following the departure of the UK from the EU. The citizens covered by Part 2 of the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement ("the Citizens' Rights Agreements") are those from the 27 EU Member states as well as Iceland, Lichtenstein and Norway, along with their family members.
2. We were established in 2020 by the European Union (Withdrawal Agreement) Act 2020, which implements in the UK the Citizens' Rights Agreements. We became operational at 11pm on December 31st, 2020.
3. We monitor UK public bodies to make sure they adequately and effectively implement the rights provided for by the Citizens' Rights Agreements. In broad terms these rights relate to:
  - residence,
  - work and self-employment,
  - recognition of professional qualifications, and
  - social security
4. The right to equal treatment and non-discrimination also flows through the rights contained in Part 2 of the Citizens' Rights Agreements.
5. We have a number of functions and can receive complaints; launch inquiries; and consider legal action to remedy breaches in how the agreements are implemented or applied.

6. More detailed information can be found on our website including our [Annual Plan for 2022/23](#).

### Duty to Monitor Legislation

7. Paragraph 22(2)(a) of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020, provides that as part of its duty to monitor the implementation and application in the UK of Part 2 of the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement (“the Agreements”), the IMA must: -

*“Keep under review the adequacy and effectiveness of the legislative framework which implements or otherwise deals with matters arising out of, or related to, Part 2”.*

8. Regulation 5(2) of the European Union (Withdrawal Agreement) Act 2020 Independent Monitoring Authority Regulations 2020 places the IMA under an identical duty to keep the legislative framework of Gibraltar under review insofar as it implements or deals with matters arising out of Part 2 of the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement.
9. As part of our legislation monitoring work, we identify and review any legislation that affects a citizen’s exercise of their rights under Part 2 of the Citizens’ Rights Agreements. Following that review we publish a report which sets out any issues that concerning the exercise of rights. As part of the review process, we will liaise with the relevant government or government department responsible for the legislation. Our reports can be found [here](#).

### Key concern

10. The IMA has published an interim [report](#)<sup>1</sup> on the Bill (Annex) which sets out its key concern which is that neither the Bill nor any explanatory material accompanying it, sets out how the sunset provision in Clause 1 of the Bill affects “relevant separation agreement law” i.e. the body of law that relates to the Citizens’ Rights Agreements.
11. During second reading of the Bill on 25 October 2022, the former Parliamentary Under-Secretary to the Department for Business, Energy and Industrial Strategy stated that *“some retained EU law in the scope of the sunset is required to continue to operate our international obligations, including the trade and co-operation agreement, **the withdrawal agreement** [our emphasis] and the Northern Ireland protocol. Therefore, I am very happy to make a commitment today that the Government will, as a priority, take the necessary action to safeguard the substance of any retained EU law and legal effects required to operate international obligations within domestic law. We will set out where retained EU law is required to maintain international obligations through the dashboard, so that the public can scrutinise it.”*

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<sup>1</sup> The IMA intends to publish further reports which can be highlighted to the Committee if it would assist.

12. Officials at the Cabinet Office have confirmed to the IMA that they will use the powers in the Bill (Clause 1(2)) to ensure that the necessary “relevant separation agreement law” is in place to maintain international obligations.

13. The IMA considers that the UK Government must, as a matter of urgency, set out, in detail their plans in respect of “relevant separation agreement law”.

If the Committee requires any further information please email [ima@ima-citizensrights.org.uk](mailto:ima@ima-citizensrights.org.uk)

Yours faithfully

Rhys Davies

**General Counsel  
Independent Monitoring Authority**

*November 2022*

Interim Legislation Monitoring Report	
<b>Title</b>	<a href="#">Retained EU Law (Revocation and Reform) Bill</a>
<b>Date Legislation Considered by IMA</b>	01.11.22
<b>Date Legislation in Force</b>	Not yet in force
<b>Potential Right(s) Affected</b>	<ul style="list-style-type: none"> <li>• Residence</li> <li>• Discrimination/Equal Treatment</li> <li>• Workers</li> <li>• Social Security coordination</li> </ul>
<b>Background and Purpose</b>	<p>The Retained EU Law (Revocation and Reform) Bill (“the Bill”) was introduced to the House of Commons on 22 September 2022. The <a href="#">Explanatory Notes</a> state that its purpose is “<i>to provide the Government with all the required provisions that allow for the amendment of retained EU law (REUL) and remove the special features it has in the UK legal systems.</i>” The Explanatory Notes further state that “<i>the Bill will give effect to policies that were set out in the <a href="#">Benefits of Brexit Report</a> published in</i></p>

*January 2022 and the [Government's announcement](#) of the review into the substance and status of REUL in September 2021”*

The Bill contains 23 clauses and 3 Schedules, addressing a range of issues. It makes provision for significant changes to the current status, operation, and content of a body of domestic law that is known as “retained EU law” . In simple terms retained EU law (“REUL”) is a category of domestic law created at the end of the transition period (11pm on 31 December 2020). It is made up of certain EU laws that were ‘copied and pasted’ or preserved in the UK statute book in order to minimise disruption on EU Exit and avoid gaps in the law in important areas such as employment law and the environment.

This interim report only addresses Clauses 1 and 2 of the Bill, which are concerned with the repeal or ‘sunsetting’ of most REUL. Further reports will be published [here](#) as the Bill makes its passage through Parliament

### **Sunset of REUL**

Clause 1 of the Bill, which comes into force on the day that the Act is passed, sets out how the sunset mechanism will work.

It provides that unless action is taken by UK Ministers or a devolved authority (in devolved areas) to preserve “EU-derived subordinate legislation” and “retained direct EU legislation” (which are forms of REUL), it will cease to exist on the statute book on 31 December 2023.

Clause 2 enables UK Ministers to postpone the sunset until as late as 23 June 2026 for some but not all retained EU law, via statutory instrument.

The sunset provision does not apply to certain financial services legislation which is expressly excluded.

Clause 1(4) of the Bill sets out the “EU-derived subordinate legislation” that is in scope of the sunset. It includes domestic subordinate legislation made under powers within the European Communities Act 1972; or that operated immediately before 11pm 31 December 2020 for the purpose of implementing EU obligations etc.

“Retained direct EU legislation” is defined in section 20(1) of the European Union (Withdrawal Act) 2018 (“EUWA”) and includes all EU regulations, decisions or tertiary legislation and certain parts of the EEA agreement.

#### **Sunset and Relevant Separation Agreement Law**

“Relevant separation agreement law” is defined in section 7C(3) of EUWA. It includes parts of EUWA; Part 3 or section 20 of the European Union (Withdrawal Agreement) Act 2020 and any domestic law that is for the purposes of or within scope of the Withdrawal Agreement, EEA EFTA Separation Agreement and Swiss Citizen’s Rights Agreement.

Section 7A(3) and 7B(3) of EUWA provide that every enactment (including the Bill) is to be read and has effect subject to the rights and liabilities etc. of the Withdrawal Agreement and EEA EFTA Separation Agreement.

The IMA considers that some “relevant separation agreement law” will fall within the definition of “EU-derived subordinate legislation”. This is acknowledged by the UK Government. Paragraph 76 of

	<p>the explanatory notes to the Bill provides that “relevant separation agreement law” is an example of a category of REUL that a sunset extension could apply to.</p> <p>During second reading of the Bill on 25 October 2022, the former Parliamentary Under- Secretary to the Department for Business, Energy and Industrial Strategy also stated that <i>“some retained EU law in the scope of the sunset is required to continue to operate our international obligations, including the trade and co-operation agreement, the withdrawal agreement and the Northern Ireland protocol. Therefore, I am very happy to make a commitment today that the Government will, as a priority, take the necessary action to safeguard the substance of any retained EU law and legal effects required to operate international obligations within domestic law. We will set out where retained EU law is required to maintain international obligations through the dashboard, so that the public can scrutinise it.”</i></p>
<p><b>Comments</b></p>	<p>The IMA is concerned that the Bill and accompanying documentation fails to make it clear how “relevant separation agreement law” will be affected by the sunset provisions. This is unsatisfactory for EU and EEA EFTA citizens or indeed anyone who may have to navigate such law, and there is clearly potential for confusion.</p> <p>The IMA has discussed the provisions with officials at Cabinet Office who have confirmed that:-</p> <p><i>“ The UK Government is committed to ensuring the necessary legislation is in place to uphold the UK’s international obligations, including the Northern Ireland Protocol (NIP) and the Trade and Cooperation Agreement (TCA) after the sunset date. The UK Government will also ensure the necessary legislation is in place to ensure that the terms of the Withdrawal Agreement (WA) are upheld, including regarding citizens’ rights. The aim of this Bill is not to alter the rights of EU</i></p>

*nationals which are protected, or eligible to be protected, by the relevant citizens' rights provisions contained within the WA."*

Officials have further confirmed that they will use the powers in the Bill (Clause 1(2)) to ensure that the necessary "relevant separation agreement law" is in place to maintain international obligations.

The IMA is continuing to liaise with officials at the Cabinet Office. In the meantime, any citizen experiencing difficulties in exercising their rights is encouraged to report a complaint through the [IMA Portal](#).

Further information about the IMA and guidance on how to report complaints can also be found on the [Website](#).