

Retained EU Law (Revocation and Reform) Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

LORD CLEMENT-JONES

Clause 1, page 1, line 4, at beginning insert “Except for the Copyright (Computer Programs) Regulations 1992 (SI 1992/3233),”

LORD CLEMENT-JONES

Clause 1, page 1, line 4, at beginning insert “Except for the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032),”

LORD CLEMENT-JONES

Clause 1, page 1, line 4, at beginning insert “Except for the Copyright and Rights in Databases (Amendment) Regulations 2003 (SI 2003/2501),”

Clause 6

BARONESS MCINTOSH OF PICKERING

Clause 6, page 4, line 6, leave out first “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This is a consequential amendment which provides clarity about precisely when retained EU law will be known as assimilated law.

BARONESS MCINTOSH OF PICKERING

Clause 6, page 4, line 6, leave out second “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This is a consequential amendment which provides clarity about precisely when retained EU law will be known as assimilated law.

Clause 7

LORD ANDERSON OF IPSWICH

Clause 7, page 5, line 37, at end insert –

- “(d) the consequences of disturbing a settled understanding of the law;
- (e) the importance of legal certainty, clarity and predictability.”

Member's explanatory statement

This amendment balances the specific factors to which higher courts should have regard when deciding whether to depart from their own retained EU case law by the addition of two further factors.

LORD ANDERSON OF IPSWICH

Clause 7, page 6, line 7, at end insert –

- “(d) the consequences of disturbing a settled understanding of the law;
- (e) the importance of legal certainty, clarity and predictability.”

Member's explanatory statement

This amendment balances the specific factors to which higher courts should have regard when deciding whether to depart from their own retained domestic case law by the addition of two further factors.

After Clause 15BARONESS PARMINTER
LORD KREBS

After Clause 15, insert the following new Clause –

“Powers to revoke or replace: application to environmental law

- (1) This section applies in respect of provision which may be made by a relevant national authority under section 15 where the provision is in respect of secondary retained EU law which is environmental law.
- (2) No provision to which this section applies may be made in relation to an element of the environment unless the relevant national authority considers that the

provision, taken together with other secondary retained EU law relating to the element of the environment, will contribute to a significant improvement in environmental protection.

- (3) The relevant national authority must ensure that any provision made under section 15 does not –
 - (a) reduce the level of environmental protection arising from the EU retained law to which the provision relates,
 - (b) conflict with –
 - (i) the relevant international environmental agreements,
 - (ii) the relevant international environmental principles, and
 - (c) otherwise undermine the implementation of the policy statement on environmental principles as set out in section 17 of the Environment Act 2021 before the duty to have regard to the statement is brought into force.
- (4) Prior to making any provision to which this section applies, the relevant national authority must –
 - (a) seek advice from persons who are independent of the authority and have relevant expertise,
 - (b) seek advice from, as appropriate, the Office for Environmental Protection, Environmental Standards Scotland, a devolved environmental governance body or another person exercising similar functions, and
 - (c) publish a report setting out –
 - (i) how the provision does not reduce the level of environmental protection in accordance with subsection (3),
 - (ii) how the provision will contribute to a significant improvement in environmental protection in accordance with subsection (2), and
 - (iii) how the authority has taken into account the advice from the persons referred to in paragraphs (a) and (b) of this subsection.
- (5) In this section –
 - the “relevant international environmental agreements” means –
 - (a) the UNECE Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus, 25 June 1998);
 - (b) the Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 1979);
 - (c) the UN Convention on Biodiversity (Rio, 1992);
 - (d) the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979);
 - (e) the Convention for the Protection of the Marine Environment of the North-East Atlantic (1992);
 - (f) the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 1971);
 - the “relevant international environmental principles” means –
 - (a) the integration principle;
 - (b) the precautionary principle;

- (c) the prevention principle;
- (d) the rectification at source principle;
- (e) the polluter pays principle.”

Member's explanatory statement

This new clause creates additional conditions to be satisfied before the powers set out in clause 15 can be exercised where the subject matter of their exercise concerns environmental law. It would set out in legislation the commitments Government has made not to reduce environmental standards through exercise of the powers in clause 15 of REUL which are not (currently) reflected in clause 15 or elsewhere.

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9 February 2023

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