

Retained EU Law (Revocation and Reform) Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

LORD ROOKER
LORD KREBS

Clause 1, page 1, line 9, at end insert –

- “(2A) Subsection (1) does not apply to any instrument regulating –
- (a) farm antibiotic use;
 - (b) residue testing;
 - (c) import of meat treated with hormone growth promoters;
 - (d) BSE monitoring;
 - (e) residues of pesticides;
 - (f) food labelling;
 - (g) food and feed safety in England, Wales, Scotland and Northern Ireland.”

After Clause 1

LORD FOX
BARONESS LUDFORD

After Clause 1, insert the following new Clause –

“Super-affirmative procedure

- (1) Section 1(1) does not apply to any EU-derived subordinate legislation or retained direct EU legislation unless the conditions in subsections (2) to (4) are met.
- (2) For each instrument that is proposed to be revoked, a Minister of the Crown must lay before Parliament –
 - (a) a draft of the regulations; and
 - (b) a document which explains the draft regulations.
- (3) Where a draft of the regulations is laid before Parliament under subsection (2), no statutory instrument containing the regulations may be laid before Parliament until after the expiry of the 30-day period.

- (4) A Minister of the Crown must request a committee of either House whose remit relates to the regulations to report on the draft regulations within the 30-day period.
- (5) In preparing a draft statutory instrument containing the regulations, a Minister of the Crown must take account of –
 - (a) any representations;
 - (b) any resolution of either House of Parliament; and
 - (c) any recommendations of a committee under subsection (4);made within the 30-day period with regard to the draft regulations.
- (6) If, after the 30-day period, a Minister of the Crown wishes to make regulations in the terms of the draft or a revised draft, they must lay before Parliament a statement –
 - (a) stating whether any representations, resolutions or recommendations were made under subsection (5);
 - (b) giving details of any representations, resolutions or recommendations so made; and
 - (c) explaining any changes made in any revised draft of the regulations.
- (7) A Minister of the Crown may make a statutory instrument containing the regulations (whether or not revised) if, after the laying of the statement required under subsection (6), a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (8) In this section, “the 30-day period” in relation to any draft regulations is the period of 30 days beginning with the day on which the original draft regulations were laid before Parliament.
- (9) For the purposes of subsection (8) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.”

Member's explanatory statement

This amendment would ensure that the super-affirmative procedure is used to revoke EU-derived subordinate legislation or retained direct EU legislation, providing increased parliamentary scrutiny.

Clause 6

LORD HOPE OF CRAIGHEAD

Clause 6, page 4, line 34, at end insert –

- “(6A) The Scottish Ministers may by regulations make provision amending an enactment in consequence of the name of a thing being changed by subsection (1), including by virtue of regulations under section 19.
- (6B) The Welsh Ministers may by regulations make provision amending an enactment in consequence of the name of a thing being changed by subsection (1), including by virtue of regulations under section 19.”

Member's explanatory statement

This amendment gives the Scottish and Welsh Ministers a power, equivalent to the power of Ministers of the Crown in Clause 6(6), to amend legislation in consequence of the change in terminology from “retained EU law” to “assimilated law” made by Clause 6.

Clause 7

LORD HOPE OF CRAIGHEAD

Clause 7, page 8, line 14, leave out “, if the point of law relates to the meaning or effect of relevant Scotland legislation”

Member's explanatory statement

This amendment modifies the points of law on which the Lord Advocate may make a reference under the new section 6B so that the section is not restricted to points of law which relate to the meaning and effect of relevant Scottish legislation.

LORD HOPE OF CRAIGHEAD

Clause 7, page 8, line 15, at end insert “or to the retained functions of the Lord Advocate, within the meaning of section 52(6) of the Scotland Act 1998”

Member's explanatory statement

This amendment modifies the points of law on which the Lord Advocate may intervene under the new section 6B so that the power to intervene may be exercised in relation to points of law which concern the retained functions of the Lord Advocate.

LORD HOPE OF CRAIGHEAD

Clause 7, page 9, leave out lines 15 to 28

Member's explanatory statement

This amendment is consequential on Lord Hope of Craighead’s amendment at page 8, line 14.

LORD HOPE OF CRAIGHEAD

Clause 7, page 10, line 18, leave out “, if the argument relates to the meaning or effect of relevant Scotland legislation”

Member's explanatory statement

This amendment modifies the arguments in legal proceedings on which the Lord Advocate may make a reference under the new section 6C so that the section is not restricted to points of law which relate to the meaning and effect of relevant Scottish legislation.

LORD HOPE OF CRAIGHEAD

Clause 7, page 10, line 27, leave out “relevant Scotland legislation”

Member's explanatory statement

This amendment is consequential on the amendments at page 8, line 14 and page 10, line 18. It omits the definition of “relevant Scotland legislation”.

Clause 12

BARONESS HUMPHREYS

Clause 12, page 16, line 4, at end insert –

“(1A) A Minister of the Crown may not make regulations under subsection (1) if any provision of those regulations is within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly unless the relevant devolved legislature has passed a legislative consent motion in respect of those regulations.”

Member's explanatory statement

This amendment ensures that a legislative consent motion must be passed by the relevant devolved legislature if a Minister of the Crown seeks to make regulations to restate secondary retained EU law where the provisions of those regulations fall within the legislative competence of a devolved legislature.

Clause 13

BARONESS HUMPHREYS

Clause 13, page 16, line 30, at end insert –

“(1A) A Minister of the Crown may not make regulations under subsection (1) if any provision of those regulations is within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly unless the relevant devolved legislature has passed a legislative consent motion in respect of those regulations.”

Member's explanatory statement

This amendment ensures that a legislative consent motion must be passed by the relevant devolved legislature if a Minister of the Crown seeks to make regulations to restate secondary assimilated law where the provisions of those regulations fall within the legislative competence of a devolved legislature.

Clause 15

BARONESS HUMPHREYS

Clause 15, page 18, line 38, at end insert –

- “(3A) A Minister of the Crown may not make regulations under subsections (1) to (3) if any provision of those regulations is within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly unless the relevant devolved legislature has passed a legislative consent motion in respect of those regulations.”

Member's explanatory statement

This amendment ensures that a legislative consent motion must be passed by the relevant devolved legislature if a Minister of the Crown seeks to make regulations to revoke or replace secondary EU retained law where the provisions of those regulations fall within the legislative competence of a devolved legislature.

Schedule 4

LORD HOPE OF CRAIGHEAD

Schedule 4, page 39, line 38, at end insert –

- “(14) A Minister of the Crown must obtain the consent of the Scottish Ministers before making regulations to which this Part of this Schedule applies if the regulations contain a provision that –
- (a) would be within the legislative competence of the Scottish Parliament if it were contained in an Act of the Scottish Parliament, or
 - (b) could be made in subordinate legislation by the Scottish Ministers acting alone.
- (15) A Minister of the Crown must obtain the consent of the Welsh Ministers before making regulations to which this Part of this Schedule applies if the regulations contain a provision that –
- (a) would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru (ignoring any requirement for consent of a Minister of the Crown imposed under Schedule 7B of the Government of Wales Act 2006), or
 - (b) could be made in subordinate legislation by the Welsh Ministers acting alone.”

Member's explanatory statement

This amendment modifies the powers conferred on Ministers of the Crown when making regulations in devolved areas under this Schedule so that the power may only be exercised with the consent of the Scottish or Welsh Ministers.

Clause 22

LORD HOPE OF CRAIGHEAD

Clause 22, page 23, line 39, at end insert—

- “(4A) The Scottish Ministers may by regulations make such transitional, transitory or saving provision as they consider appropriate in connection with—
- (a) the coming into force of any provision of this Act,
 - (b) the revocation of anything by section 1, or
 - (c) anything ceasing to be recognised or available in domestic law (and accordingly ceasing to be enforced, allowed or followed) as a result of section 3.
- (4B) The Welsh Ministers may by regulations make such transitional, transitory or saving provision as they consider appropriate in connection with—
- (a) the coming into force of any provision of this Act,
 - (b) the revocation of anything by section 1, or
 - (c) anything ceasing to be recognised or available in domestic law (and accordingly ceasing to be enforced, allowed or followed) as a result of section 3.”

Member's explanatory statement

This amendment gives the Scottish and Welsh Ministers a power that is equivalent to that given to the UK Ministers by Clause 22(4) of the Bill.

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20 February 2023

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS