

Retained EU Law (Revocation and Reform) Bill

SECOND MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 6th February 2023, as follows –

Clauses 1 to 6	Clauses 11 to 20
Schedule 1	Schedules 3 and 4
Clauses 7 to 10	Clauses 21 to 23
Schedule 2	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

BARONESS RANDESON
LORD FOX

- 7 Clause 1, page 1, line 4, at beginning insert “Except for the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 (S.I. 1993/31),”

Member's explanatory statement

This amendment excludes the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 from the sunset in Clause 1. The Regulations protect children from serious injury or death in vehicle accidents.

BARONESS RANDESON
LORD FOX

- 8 Clause 1, page 1, line 4, at beginning insert “Except for Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights,”

Member's explanatory statement

This amendment excludes Regulation (EU) No. 261/2004 from the sunset in Clause 1. The Regulation makes provision for compensation and assistance for passengers when a flight is delayed or cancelled.

BARONESS RANDERSON
LORD FOX

- 9 Clause 1, page 1, line 4, at beginning insert “Except for the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634),”

Member's explanatory statement

This amendment excludes the Package Travel and Linked Travel Arrangements Regulations 2018 from the sunset in Clause 1. The Regulations provide fundamental legal and financial protection to consumers, such as in case of cancellation or the travel company becoming insolvent.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS PARMINTER

- 10 Clause 1, page 1, line 4, at beginning insert “Except for the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012),”

Member's explanatory statement

This amendment excludes the Conservation of Habitats and Species Regulations 2017 from the sunset in Clause 1. The Regulations provide protection for nature and special habitats.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS PARMINTER

- 11 Clause 1, page 1, line 4, at beginning insert “Except for the Bathing Waters Regulations 2013 (S.I. 2013/1675),”

Member's explanatory statement

This amendment excludes the Bathing Waters Regulations 2013 from the sunset in Clause 1. The Regulations ensure swimmers can avoid pollution and make informed choices about where and when to swim.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS PARMINTER

- 12 Clause 1, page 1, line 4, at beginning insert “Except for the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (S.I. 2017/407),”

Member's explanatory statement

This amendment excludes the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 from the sunset in Clause 1. The Regulations protect the UK's water environment.

LORD CLEMENT-JONES

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

Member's explanatory statement

This amendment excludes the Copyright (Computer Programs) Regulations 1992 from the sunset in Clause 1. The Regulations relate to the protection of copyright in computer programmes.

LORD CLEMENT-JONES

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

Member's explanatory statement

This amendment excludes the Copyright and Rights in Databases Regulations 1997 from the sunset in Clause 1. The Regulations create unique copyright protection for databases.

LORD CLEMENT-JONES

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

Member's explanatory statement

This amendment excludes the Copyright and Rights in Databases (Amendment) Regulations 2003 from the sunset in Clause 1. The Regulations extend copyright protections for databases to the Isle of Man.

LORD CLEMENT-JONES
LORD FOX

- 16 In Clause 1, page 1, line 4, at beginning insert “Except for the General Product Safety Regulations 2005,”

Member's explanatory statement

This amendment excludes the General Product Safety Regulations 2005 from the sunset in Clause 1. The Regulations ensure that as a minimum all consumer products must be safe.

LORD CLEMENT-JONES
LORD FOX

- 17 Clause 1, page 1, line 4, at beginning insert “Except for Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC, and the Personal Protective Equipment (Enforcement) Regulations 2018 (S.I. 2018/390),”

Member's explanatory statement

This amendment excludes Regulation (EU) 2016/425 of the European Parliament and Personal Protective Equipment (Enforcement) Regulations 2018 from the sunset in Clause 1. They regulate personal protective equipment safety requirements and provide for a penalty and enforcement regime for non-compliance with the regulatory regime.

LORD CLEMENT-JONES
LORD FOX

- 18 Clause 1, page 1, line 4, at beginning insert “Except for Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (recast) and the Cosmetic Product Enforcement Regulations 2013 (S.I. 2013/1478),”

Member's explanatory statement

This amendment excludes Regulation (EC) No. 1223/2009 and the Cosmetic Product Enforcement Regulations 2013 from the sunset in Clause 1. They regulate cosmetic products safety requirements and provide for a penalty and enforcement regime for non-compliance with the regulatory regime.

LORD CLEMENT-JONES
LORD FOX

- 19 Clause 1, page 1, line 4, at beginning insert “Except for the Consumer Protection from Unfair Trading Regulations 2008,”

Member's explanatory statement

This amendment excludes the Consumer Protection from Unfair Trading Regulations 2002 from the sunset in Clause 1. The Regulations implement the Unfair Commercial Practices Directive to prevent misleading and aggressive business practices.

LORD CLEMENT-JONES
LORD FOX

- 20 Clause 1, page 1, line 4, at beginning insert “Except for the General Food Regulations 2004,”

Member's explanatory statement

This amendment excludes the General Food Regulations 2004 from the sunset in Clause 1. The Regulations prohibit the placing of unsafe food on the market, prohibits misleading information to consumers and places obligations on food business to ensure traceability of food.

LORD CLEMENT-JONES
LORD FOX

- 21 Clause 1, page 1, line 4, at beginning insert “Except for the Control of Substances Hazardous to Health Regulations 2002,”

Member's explanatory statement

This amendment excludes the Control of Substances Hazardous to Health Regulations 2002 from the sunset in Clause 1. The Regulations make arrangements for controlling the risk to workers and others' health from exposure to substances hazardous to health.

BARONESS YOUNG OF OLD SCONE

- 22 Clause 1, page 1, line 4, at beginning insert “Except for Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC, Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides, and Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products,”

Member's explanatory statement

This amendment excludes the legislation governing pesticides from the sunset in Clause 1. These regulations provide protection for biodiversity and human health and support the UK food safety and agricultural sustainability processes.

LORD FOX

- 23 Clause 1, page 1, line 4, at beginning insert “Except for the Transfer of Undertakings (Protection of Employment) Regulations 2006,”

Member's explanatory statement

This amendment excludes the Transfer of Undertakings (Protection of Employment) Regulations 2006 from the sunset in Clause 1. These Regulations protect employees if the business in which they are employed changes hands.

LORD FOX

BARONESS RANDERSON

- 24 Clause 1, page 1, line 4, at beginning insert “Except for the Road Vehicles (Approval) Regulations 2020,”

Member's explanatory statement

This amendment excludes the Road Vehicles (Approval) Regulations 2020 from the sunset in Clause 1. These Regulations implement the enforcement regime for the road vehicle type-approval scheme, which ensures that new cars, buses and goods vehicles comply with high standards of safety and environmental protection.

LORD FOX

- 25 Clause 1, page 1, line 4, at beginning insert “Except for the Control of Asbestos Regulations 2012,”

Member's explanatory statement

This amendment excludes the Control of Asbestos Regulations 2012 from the sunset in Clause 1. These Regulations provide the framework for the management of Asbestos, ranging from provisions for building owners to those removing it or analysing samples which may contain asbestos fibres.

LORD FOX
BARONESS LUDFORD

- 26 Clause 1, page 1, line 4, at beginning insert “Subject to section (*Consultation and reporting*),”

Member's explanatory statement

This amendment is connected to Lord Fox’s amendment after Clause 1 “Consultation and reporting”.

BARONESS MCINTOSH OF PICKERING
LORD HOPE OF CRAIGHEAD

- 27 Clause 1, page 1, line 4, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This amendment amends Clause 1 to provide clarity about and extend the date on which the sunset provisions come into effect.

BARONESS MCINTOSH OF PICKERING

- 28 Clause 1, page 1, line 4, leave out “2023” and insert “2028”

BARONESS HUMPHREYS
BARONESS RANDERSON
LORD HOPE OF CRAIGHEAD

- 29 Clause 1, page 1, line 6, at end insert –

- “(1A) Subsection (1) does not apply to an instrument, or a provision of an instrument, that –
- (a) would be within the legislative competence of –
 - (i) the Scottish Parliament if it were contained in an Act of the Scottish Parliament,
 - (ii) Senedd Cymru if it were contained in an Act of Senedd Cymru, or
 - (iii) the Northern Ireland Assembly if it were contained in an Act of the Northern Ireland Assembly, or
 - (b) could be made in subordinate legislation by –
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or

(iii) Ministers of the Northern Ireland Executive.”

Member's explanatory statement

This amendment restricts the automatic revocation or “sunsetting” of EU-derived subordinate legislation and retained direct EU legislation under Clause 1 of the Bill so that it does not apply to legislation that is within the legislative competence of each of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly or Executive.

LORD KREBS
LORD ROOKER
BARONESS BOYCOTT

30 Clause 1, page 1, line 6, at end insert –

“(1A) Subsection (1) does not apply to any provision of EU-derived subordinate legislation or retained direct EU legislation, relating to food safety, plant health or animal health within the scope of Chapter 3 of Title I of Heading One of Part Two of the Trade and Cooperation Agreement between the United Kingdom and the European Union signed on 30 December 2020 (sanitary and phytosanitary measures).”

Member's explanatory statement

This amendment ensures that the UK adheres to the sanitary and phytosanitary (human, animal and plant health) requirements of the Trade and Cooperation Agreement between the European Union and the United Kingdom in order to maintain key safety protections.

LORD CALLANAN

31 Clause 1, page 1, line 7, leave out subsection (2)

Member's explanatory statement

This amendment removes a power to except things from the sunset. The power is contained in new Clause (Exceptions to sunset under section 1).

LORD JUDGE
LORD HODGSON OF ASTLEY ABBOTTS
BARONESS TAYLOR OF BOLTON
LORD BEITH

32 Clause 1, page 1, line 7, leave out subsection (2) and insert –

“(2) Subsection (1) does not apply –
(a) to an instrument, or a provision of an instrument, that is specified in regulations made by a relevant national authority,
(b) where an instrument, or a provision of an instrument, is being replaced, restated or reproduced, until one month after the replacement instrument has been laid before both Houses of Parliament, or

- (c) where an instrument, or a provision of an instrument, is not being replaced, restated or reproduced, until one month after a Minister of the Crown has made a statement to that effect in each House of Parliament.
- (2A) Where subsection (2)(b) or (c) applies to an instrument, or a provision of an instrument, and both Houses of Parliament resolve prior to the date in subsection (1) that the instrument be retained, then the Government must make regulations under subsection (2)(a) specifying that instrument.”

Member's explanatory statement

This amendment would require the Government to set out in advance what they propose will happen to each instrument covered by the sunset Clause, giving Parliament the ability to scrutinise these decisions. It would also allow Parliament to overrule the Executive and choose to retain specified instruments if both Houses agree.

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

- 33 Clause 1, page 1, line 9, at end insert “or to human rights, equality or environmental protection legislation, to the extent that it has effect in Northern Ireland, including legislation that falls within the scope of Article 2 of the Northern Ireland Protocol”

Member's explanatory statement

This amendment would prevent the automatic revocation or “sunsetting” of EU-derived subordinate legislation and retained direct EU legislation that relates to human rights, equality and environmental protection, to the extent that this legislation is effective in Northern Ireland. This would include excluding all such legislation that falls within the scope of Protocol Article 2.

LORD HOPE OF CRAIGHEAD
LORD MURPHY OF TORFAEN

- 34 Clause 1, page 1, line 9, at end insert –
- “(2A) Subsection (1) does not apply to legislation that is relevant to the policy content and operation of the Common Frameworks.”

BARONESS MCINTOSH OF PICKERING

- 35 Clause 1, page 1, line 9, at end insert –
- “(2A) Subsection (1) does not apply to any Common Framework as defined by section 10(4) of the United Kingdom Internal Market Act 2020.”

Member's explanatory statement

This amendment ensures that the sunset provision in clause 1 will not apply to any Common Framework.

BARONESS RANDERSON
LORD BRUCE OF BENNACHIE

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

“(2A) Subsection (1) does not apply to an instrument, or a provision of an instrument, which is subject to an agreed Common Framework unless it has been subject to the full process agreed between His Majesty’s Government and the devolved administrations for that instrument.”

Member's explanatory statement

This amendment is to probe the application of Common Framework Agreements to retained EU law.

BARONESS HAYMAN OF ULLOCK
LORD KREBS
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS BENNETT OF MANOR CASTLE

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

“(2A) Subsection (1) does not apply to the following instruments –

- (a) the REACH Regulation and the REACH Enforcement Regulations 2008,
- (b) the Conservation of Habitats and Species Regulations 2017,
- (c) the Conservation of Offshore Marine Habitats and Species Regulations 2017,
- (d) the Urban Waste Water Treatment (England and Wales) Regulations 1994,
- (e) the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010,
- (f) the Bathing Waters Regulations 2013,
- (g) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017,
- (h) the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (also known as the Farming Rules for Water),
- (i) the Marine Strategy Regulations 2010,
- (j) the Marine Works (Environmental Impact Assessment) Regulations 2007,
- (k) the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017,
- (l) the Town and Country Planning (Environmental Impact Assessment) Regulations 2017,
- (m) the Environmental Assessment of Plans and Programmes Regulations 2004,
- (n) the Plant Protection Products Regulation (EC) 1107/2009,
- (o) the Sustainable Use Directive Regulation (EC) 396/2005,
- (p) the National Emission Ceilings Regulations 2018,
- (q) the Invasive Alien Species (Enforcement and Permitting) Order 2019,

- (r) the Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012,
- (s) the Welfare of Farmed Animals (England) Regulations 2000,
- (t) Regulation 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof, and
- (u) the Welfare of Animals (Transport) (England) Order 2006.”

Member's explanatory statement

This amendment would exclude certain legislation which provides for environmental protections from the sunset in subsection (1).

LORD ROOKER
LORD KREBS
BARONESS BENNETT OF MANOR CASTLE

38 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.”

LORD KREBS
LORD ROOKER
BARONESS BOYCOTT

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

- “(2A) Subsection (1) does not apply to the –
- (a) General Food Regulations 2004;
 - (b) General Food Law Regulations 2004 in Scotland and Wales;
 - (c) Food Safety and Hygiene (England) Regulations 2013;
 - (d) Food Hygiene (Wales) Regulations 2006;
 - (e) Food Hygiene (Scotland) Regulations 2006;
 - (f) Food Information (Wales) Regulations 2014;
 - (g) Food Safety (Sampling and Qualifications) (England) Regulations 2013;
 - (h) Regulation (EC) 178/2002 General principles and requirements of food law;
 - (i) Regulation (EC) 852/2004 on the hygiene of foodstuffs;
 - (j) Regulation (EC) 2015/2283 on novel foods;
 - (k) Regulation (EC) 1333/2008 on food additives;
 - (l) Regulation (EC) 1334/2008 on flavourings;

- (m) Regulation (EC) 1881/2006 setting maximum levels for certain contaminants in foodstuffs;
- (n) Regulation EC 1824/2006 on nutrition and health claims made on foods.”

Member's explanatory statement

This amendment would exclude certain regulations which provide for high standards in food safety and food hygiene from the sunset in subsection (1).

LORD COLLINS OF HIGHBURY

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

“(2A) Subsection (1) does not apply to the –

- (a) Management of Health and Safety at Work Regulations 1999,
- (b) Children and Young Person Working Time Regulations 1933,
- (c) Posted Workers (Enforcement of Employment Rights) Regulations 2020,
- (d) Part Time Employees (Prevention of Less Favourable Treatment) Regulations 2000,
- (e) Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002,
- (f) Transfer of Undertakings (Protection of Employment) Regulations 2006,
- (g) Information and Consultation of Employees Regulations 2004,
- (h) Road Transport (Working Time) Regulations 2005,
- (i) Working Time Regulations 1998,
- (j) Agency Workers Regulations 2010,
- (k) Maternity and Parental Leave etc Regulations 1999,
- (l) Trade Secrets (Enforcement etc) Regulations 2018, and
- (m) Health and Safety (Consultation with Employees) Regulations 1996.”

Member's explanatory statement

This amendment would exclude certain regulations which provide for workers' protections from the sunset in subsection (1).

LORD CALLANAN

41 Clause 1, page 2, line 4, leave out subsection (6)

Member's explanatory statement

See the statement relating to the Minister's amendment at Clause 1, page 1, line 7.

LORD FOX
BARONESS LUDFORD
LORD HACKING

42 Leave out Clause 1 and insert the following new Clause –

“Objectives for revoking or amending EU-derived subordinate legislation and retained direct EU legislation

- (1) EU-derived subordinate legislation and retained direct EU legislation continue to have effect in domestic law unless it is specified in regulations made by a relevant national authority that the legislation is revoked.
- (2) In determining whether to revoke legislation under subsection (1), the relevant national authority must pursue the objectives in subsections (3) to (6).
- (3) The first objective is to consider whether the legislation is not fit for purpose.
- (4) The second objective is to consider whether alternative regulation would achieve different and preferable goals.
- (5) The third objective is to consider whether alternative regulation would provide greater benefits to –
 - (a) consumers;
 - (b) workers;
 - (c) businesses;
 - (d) the environment;
 - (e) animal welfare;
 - (f) public safety.
- (6) The fourth objective is to consider whether alternative regulation would provide greater legal certainty.”

Member's explanatory statement

This amendment retains all REUL in domestic legislation until such time as a relevant national authority determines that legislation should be revoked, after applying certain objectives to that decision.

BARONESS CHAPMAN OF DARLINGTON
LORD FOX

43 Leave out Clause 1 and insert the following new Clause –

“Parliamentary revocation of EU-derived subordinate legislation and retained direct EU legislation

- (1) In order to revoke retained EU law, a Minister of the Crown must lay before each House of Parliament a draft revocation list which contains, as separate items, provisions of –
 - (a) EU-derived subordinate legislation, and
 - (b) retained direct EU legislation,

to be revoked.

- (2) In order to be revoked, the items on a revocation list must be approved by a resolution of each House of Parliament by whichever is the later of –
 - (a) the end of the calendar year, or
 - (b) 6 months,from the day on which the list has been laid.
- (3) Different revocation lists may be laid by different Ministers of the Crown, or by the same Minister at different times.
- (4) A revocation list may refer to any item of retained EU law, in whole or in part, and different lists may refer to different provisions of the same instrument.
- (5) For the purposes of subsection (2), if each House of Parliament approves the revocation list on a different date, the list is considered as having been approved on the latest date.
- (6) The revocation of an item of retained EU law by a list under subsection (1) does not affect any amendment made by that item of retained EU law to any other enactment.
- (7) In this section, “EU-derived subordinate legislation” means any domestic subordinate legislation so far as –
 - (a) it was made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972, or
 - (b) it was made, or operated immediately before IP completion day, for a purpose mentioned in section 2(2)(a) of that Act (implementation of EU obligations etc),and as modified by any enactment.
- (8) In subsection (7), “domestic subordinate legislation” means any instrument (other than an instrument that is Northern Ireland legislation) that is made under primary legislation.”

Member's explanatory statement

Under this amendment, retained EU law would by default remain on the statute books, rather than disappearing, so that only legislation identified and approved by Parliament is revoked.

LORD CARLILE OF BERRIEW
LORD KIRKHOPE OF HARROGATE

44

Leave out Clause 1 and insert the following new Clause –

“Establishment of a Commission for the revocation or amendment of EU-derived subordinate legislation and retained direct EU legislation

- (1) A Commission to be called the Retained EU Law Commission (“REULaC”) must be established to consider, advise on, and amend proposals for, the revocation or amendment of EU-derived subordinate legislation and retained direct EU legislation.

- (2) REULaC is to commence its work on the coming into force of this Act and to continue for a period of three years, subject to renewal thereafter from year to year following a resolution by both Houses of Parliament.
- (3) REULaC is to be chaired by a serving judge of the Court of Appeal or High Court, or a person with at least five years' part-time judicial experience, seconded for a fixed period of three years, subject to renewal thereafter from year to year following a resolution by each House of Parliament.
- (4) REULaC is to consist of the Chair and two additional Commissioners.
- (5) The additional Commissioners must be appointed from persons of appropriate experience and expertise.
- (6) Arrangements must be made for Commissioners and a proportionate number of staff of REULaC to be remunerated from public funds.
- (7) EU-derived subordinate legislation and retained direct EU legislation continues to have effect in domestic law unless removed by regulations made by statutory instrument following recommendation by REULaC that it would be appropriate for the legislation to be revoked, whether entirely or in an amended form.
- (8) Following consultation with the Commissioners, the Secretary of State must make regulations, subject to approval by resolution of both Houses of Parliament, setting out the objectives to be followed by REULaC."

Member's explanatory statement

This amendment probes the establishment of a judicially led full-time Commission, which would consider the removal and amendment of EU-derived subordinate and retained legislation, and make recommendations accordingly. Recommendations would be placed before Parliament for approval or otherwise. The Commission's existence would remove the probability of multiple actions for judicial review of decisions of Ministers, and retain final decision-making in the hands of Parliament.

LORD WHITTY

44A Leave out Clause 1 and insert the following new Clause –

“Status of retained EU law and regulation

All EU law retained under the European Union (Withdrawal) Act 2018 is to be treated as part of United Kingdom law unless repealed or amended by Act of Parliament.”

LORD FOX
BARONESS MCINTOSH OF PICKERING
LORD HACKING
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 1 stand part of the Bill.

After Clause 1

LORD CALLANAN

45 After Clause 1, insert the following new Clause—

“Exceptions to sunset under section 1

- 5 (1) Section 1(1) does not apply (so far as it would otherwise apply) to—
- (a) relevant financial services law;
 - 5 (b) any specified instrument or provision of an instrument or anything having effect under the specified instrument or provision;
 - (c) any specified description of minor instruments;
 - (d) transitional, transitory or saving provision.
- 10 (2) In this section—
- “minor instrument” means an instrument other than any Order in Council, order, rules, regulations, scheme, warrant or byelaw;
- “relevant financial services law” means—
- 15 (a) anything referred to in Schedule 1 to the Financial Services and Markets Act 2022, ignoring any regulations made under section 1(5) of that Act;
 - (b) any rules made by the Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England;
 - (c) any generally applicable requirements (within the meaning of Part 5 of the Financial Services (Banking Reform) Act 2013), or directions of general application, imposed by the Payment Systems Regulator;
- 20 “specified” means specified in regulations made by a relevant national authority;
- “transitional, transitory or saving provision” includes any EU-derived subordinate legislation (within the meaning of section 1) or retained direct
- 25 EU legislation so far as it continues to have effect or a particular effect, despite a revocation or amendment, by virtue of transitional, transitory or saving provision other than section 1B or 2 of the European Union (Withdrawal) Act 2018.
- 30 (3) Any reference in subsection (1) or in regulations under this section to a thing is, unless otherwise stated, to the thing as it subsists immediately before the time when the revocation under section 1(1) would otherwise apply in relation to it.”

Member's explanatory statement

This new clause contains new exceptions to the Clause 1 sunset (subsection (1)(c) and (d)). It also contains existing exceptions to that sunset, which are currently in subsection (2) of Clause 1 and subsection (5) of Clause 22. The exception which is currently in subsection (2) of Clause 1 is extended to include anything having effect under a specified instrument or provision.

BARONESS YOUNG OF OLD SCONE
BARONESS WILLIS OF SUMMERTOWN

As an amendment to Amendment 45

46 In subsection (1), after paragraph (a) insert—

“(aa) relevant environmental law;”

BARONESS YOUNG OF OLD SCONE
BARONESS WILLIS OF SUMMERTOWN

As an amendment to Amendment 45

47 In subsection (2), after the definition of “minor instrument” insert—

““relevant environmental law” means any environmental law falling under the definition in section 46 of the Environment Act 2021, unless included in a draft revocation list laid before and approved by a resolution of each House of Parliament;”

LORD FOX
BARONESS LUDFORD

48 After Clause 1, insert the following new Clause—

“Consultation and reporting

- (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) A relevant national authority must consult such organisations, and any such other persons, as appear to it to be representative of interests substantially affected by the revocation of that instrument.
- (3) The consultation period under subsection (2) must be at least 12 weeks.
- (4) After considering the responses of organisations and persons in subsection (2), a national authority must lay a report before Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru, or the Northern Ireland Assembly) as to the following matters—
 - (a) whether it considers it is, or is not, appropriate to revoke the instrument concerned;
 - (b) a summary of the objectives and effect in law of the instrument and the legal consequences of its revocation;
 - (c) whether that instrument affords any protections for—
 - (i) consumers,
 - (ii) workers,
 - (iii) businesses,
 - (iv) the environment, or
 - (v) animal welfare,and if so, whether and how that protection is to be continued if it is proposed that the instrument be revoked;

- (d) any benefits which are expected to flow if it is proposed to revoke that instrument;
- (e) the consultation undertaken as required by subsection (2);
- (f) any representations received as a result of that consultation;
- (g) the reason why the national authority considers that it is appropriate to revoke or retain the instrument following those representations;
- (h) if it is proposed that the instrument be revoked, the likely effect of the revocation on—
 - (i) the operation of the Trade and Cooperation Agreement between the United Kingdom and the EU, and
 - (ii) UK exports of goods or services to the European Economic Area;
- (i) if it is proposed that the instrument be revoked, the likely effect of the revocation on the operation of the Protocol on Ireland/Northern Ireland.”

Member's explanatory statement

This amendment ensures that no EU-derived subordinate legislation or retained direct EU legislation is repealed at the end of 2023 unless there is consultation on the proposed revocation and a report has been laid before Parliament or the appropriate devolved legislature detailing the consequences of the proposed revocation.

BARONESS RANDERSON
LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF

49 After Clause 1, insert the following new Clause –

“Devolved authorities: identification of retained EU law

- (1) A Minister of the Crown may request the devolved authorities to identify any EU-derived subordinate legislation and retained direct EU legislation that has been incorporated into the domestic law of Scotland, Wales or Northern Ireland and is subject to the power in section 1(1).
- (2) A Minister of the Crown or a devolved authority may publish any legislation identified under subsection (1).”

Member's explanatory statement

This amendment is to probe the progress being made in identifying EU-derived subordinate legislation and retained direct EU legislation that has been incorporated into law by the devolved administrations.

LORD FOX
BARONESS LUDFORD

50 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 2

BARONESS MCINTOSH OF PICKERING

- 51 Clause 2, page 2, line 9, leave out “Minister of the Crown” and insert “relevant national authority”

Member's explanatory statement

This amendment ensures that any relevant national authority (as defined in clause 21(1)) can extend the sunset referred to in Clause 1.

LORD CALLANAN

- 52 Clause 2, page 2, line 9, after “section 1,” insert “so far”

Member's explanatory statement

This amendment ensures that regulations under subsection (1) may specify an instrument or description of legislation in cases where it is not clear whether the sunset applies in relation to the instrument or description. The effect of doing so would be to extend the sunset date so far as the instrument or description of legislation is subject to the sunset.

BARONESS MCINTOSH OF PICKERING

- 53 Clause 2, page 2, line 12, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This is an amendment consequential upon the previous amendment in the name of Baroness McIntosh of Pickering to clause 1.

BARONESS HUMPHREYS
BARONESS RANDERSON
LORD HOPE OF CRAIGHEAD

- 54 Clause 2, page 2, line 12, at end insert –

- “(1A) Subsection (1) has effect in relation to a provision which is within the competence of –
- (a) the Scottish Ministers as if, after “A Minister of the Crown”, there were inserted “or the Scottish Ministers”,
 - (b) the Welsh Ministers as if, after “A Minister of the Crown”, there were inserted “or the Welsh Ministers”, and

- (c) the Ministers of the Northern Ireland Executive as if, after “A Minister of the Crown” there were inserted “or the Ministers of the Northern Ireland Executive”.
- (1B) A provision is within the competence of the Scottish Ministers, the Welsh Ministers or the Ministers of the Northern Ireland Executive for the purposes of this section if—
- (a) it would be within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly if it were contained in an Act of the Scottish Parliament, an Act of Senedd Cymru or an Act of the Northern Ireland Assembly, or
 - (b) it is provision which could be made in other subordinate legislation by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or
 - (iii) Ministers of the Northern Ireland Executive.”

Member's explanatory statement

This amendment clarifies what provisions would be devolved and therefore under the competence of Scottish Ministers, the Welsh Ministers or the Ministers of the Northern Ireland Executive for decision, rather than a Secretary of State.

LORD HOPE OF CRAIGHEAD
LORD MURPHY OF TORFAEN

55 Clause 2, page 2, line 12, at end insert—

“(1A) Section 1, as it applies to legislation that is relevant to the policy content and operation of the Common Frameworks, has effect as if the reference in section 1(1) to the end of 2023 were a reference to the end of 2026.”

BARONESS MCINTOSH OF PICKERING

56 Clause 2, page 2, line 18, leave out subsection (4)

Member's explanatory statement

This amendment deletes Clause 2(4).

BARONESS LAWLOR

56ZA★ Clause 2, page 2, line 19, leave out “23 June 2026” and insert “2024”

LORD WHITTY

56A Leave out Clause 2 and insert the following new Clause –

“Dashboard of EU derived legislation

Within three months of the day on which this Act is passed the Secretary of State must publish a definitive list of the EU derived legislation, set out by Government Department or national authority, which is retained and still in force and which has not been superseded by United Kingdom primary or secondary legislation.”

After Clause 2

LORD HOPE OF CRAIGHEAD

57 After Clause 2, insert the following new Clause –

“Extension of sunset under section 1 by Scottish Ministers

- (1) The Scottish Ministers may by regulations provide that section 1, as it applies in relation to a specified instrument or a specified description of legislation within section 1(1)(a) or (b), has effect as if the reference in section 1(1) to the end of 2023 were a reference to a later specified time.
- (2) In subsection (1) “specified” means specified in the regulations.
- (3) Regulations under subsection (1) may not specify a time later than 23 June 2026.”

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF

58 After Clause 2, insert the following new Clause –

“Extension of sunset under section 1 by Scottish or Welsh Ministers

- (1) The Scottish Ministers may by regulations provide that section 1, as it applies to a specified instrument or a specified description of legislation within section 1(1)(a) or (b), has effect as if the reference in section 1(1) to the end of 2023 were a reference to a later specified time.
- (2) The Welsh Ministers may by regulations provide that section 1, as it applies to a specified instrument or a specified description of legislation within section 1(1)(a) or (b), has effect as if the reference in section 1(1) to the end of 2023 were a reference to a later specified time.
- (3) In subsections (1) and (2) “specified” means specified in regulations.
- (4) Regulations under subsections (1) and (2) may not specify a time later than the end of June 2026.”

Member's explanatory statement

This amendment gives the Scottish and Welsh Ministers a power to extend the sunset date for devolved retained EU law equivalent to that conferred on a Minister of the Crown by Clause 2.

Clause 3

BARONESS MCINTOSH OF PICKERING

- 59 Clause 3, page 2, line 23, leave out “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 the time the sunset provisions under clause 3 come into effect.

BARONESS MCINTOSH OF PICKERING

- 60 Clause 3, page 2, line 24, leave out subsection (2)

Member's explanatory statement

This amendment deletes subsection (2).

BARONESS MCINTOSH OF PICKERING

- 61 Clause 3, page 2, line 27, at end insert –

“(3) A relevant national authority may by regulations provide that subsection (1) has effect as if the reference to the end of 2023 were a reference to a later specified time.”

Member's explanatory statement

This amendment provides that the sunset of retained EU rights, powers and liabilities etc can be extended to a later time by a relevant national authority.

LORD WHITTY

- 61A Clause 3, page 2, line 27, at end insert –

“(3) Sections 1 and 2, and subsections 3(1) and 3(2), do not apply to retained EU legislation in the following areas –
(a) employment rights;
(b) health and safety at work.”

Member's explanatory statement

This would exclude issues relating to employment from the Bill's provisions giving Ministers 'Henry VIIIth' powers to revoke or change the legislation, and also from the end-2023 sunset provisions. This would mean that those areas which are most relevant to trade agreements would have to go through normal Parliamentary procedures.

LORD WHITTY

61B Clause 3, page 2, line 27, at end insert –

“(3) Sections 1 and 2, and subsections 3(1) and 3(2), do not apply to retained EU legislation covering transport safety and passenger rights.”

Member's explanatory statement

This would exclude this area from the Bill's provisions giving Ministers 'Henry the VIIIth' powers to revoke or change the legislation, and also from the end-2023 sunset provisions.

LORD WHITTY

61C Clause 3, page 2, line 27, at end insert –

“(3) Sections 1 and 2, and subsections 3(1) and 3(2), do not apply to retained EU legislation in the following areas –

- (a) food standards;
- (b) environmental standards;
- (c) animal welfare standards.”

Member's explanatory statement

This would exclude these areas from the Bill's provisions giving Ministers 'Henry the VIIIth' powers to revoke or change the legislation, and also from the end-2023 sunset provisions. This - together with other amendments in the name of Lord Whitty - would mean that those areas which are most relevant to trade agreements, climate change and health would have to go through normal Parliamentary procedures.

BARONESS LUDFORD
LORD ANDERSON OF IPSWICH

62 Leave out Clause 3 and insert the following new Clause –

“Abolition of retained EU rights, powers, liabilities etc

- (1) A relevant national authority may by regulations abolish any rights, powers, liabilities, obligations, restrictions, remedies and procedures otherwise recognised and available in domestic law after exit day by virtue of section 4 of the European Union (Withdrawal) Act 2018 (saving for rights, powers, liabilities etc under section 2(1) of the European Communities Act 1972).
- (2) No regulations may be made under subsection (1) unless the conditions in subsections (3) to (6) are met.
- (3) A relevant national authority must identify the right, power, liability, obligation, restriction, remedy or procedure it proposes to abolish.
- (4) The relevant national authority must thereafter consult such organisations, and any such other persons, as appear to it to be representative of interests substantially affected by the identified right, power, liability, obligation, restriction, remedy or procedure which is proposed to be abolished.

- (5) The consultation period under subsection (4) must be at least 12 weeks.
- (6) After considering the responses of organisations and persons in subsection (4), the relevant national authority must lay a report before Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru, or the Northern Ireland Assembly) as to the following matters –
- (a) whether it considers it is, or is not, appropriate to abolish the right, power, liability, obligation, restriction, remedy or procedure;
 - (b) a summary of the objectives and effect in law of the right, power, liability, obligation, restriction, remedy or procedure and the legal consequences of its abolition;
 - (c) whether that right, power, liability, obligation, restriction, remedy or procedure affords any protections for –
 - (i) consumers,
 - (ii) workers,
 - (iii) businesses,
 - (iv) the environment, or
 - (v) animal welfare,
 and if so, whether and how that protection is to be continued if it is proposed that the right, power, liability, obligation, restriction, remedy or procedure is abolished;
 - (d) any benefits which are expected to flow if the right, power, liability, obligation, restriction, remedy or procedure is abolished;
 - (e) the consultation undertaken as required by subsection (4);
 - (f) any representations received as a result of that consultation;
 - (g) the reason why the national authority considers that it is appropriate to abolish the right, power, liability, obligation, restriction, remedy or procedure following those representations;
 - (h) the likely effect of abolition on –
 - (i) the operation of the Trade and Cooperation Agreement between the United Kingdom and the EU, and UK exports of goods or services to the European Economic Area;
 - (ii) the operation of the Protocol on Ireland/Northern Ireland.
- (7) In section 4 of the European Union (Withdrawal) Act 2018 (saving for rights, powers, liabilities etc under section 2(1) of the European Communities Act 1972), in subsection (2)
- (a) omit the “or” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “, or
 - (c) have been abolished by virtue of section 3 (abolition of retained EU rights, powers, liabilities etc) of the Retained EU Law (Revocation and Reform) Act 2023.””

Member's explanatory statement

This amendment would remove the automatic deletion by the sunset clause of the rights, powers, liabilities etc currently recognised and available in domestic law by virtue of section 4 of the EUWA 2018. Instead, the amendment ensures no rights, powers, liabilities etc are abolished unless they

have been identified, been subject to consultation, and a report has been laid before the relevant legislature detailing the consequences of abolition.

LORD WHITTY

62A Leave out Clause 3 and insert the following new Clause –

“Establishment of Committee to consider future status of all retained EU law

- (1) Within two months of the day on which this Act is passed there shall be established a Committee which will consist of equal numbers of members of each House of Parliament, and with the Chair to be elected from amongst that membership.
- (2) The remit of that Committee shall be to review in five years all retained EU legislation that remains in force and make recommendations to both Houses as to whether the retained legislation should be –
 - (a) retained and given the status of assimilated UK primary legislation,
 - (b) retained and given the status of assimilated UK secondary legislation,
 - (c) replaced by alternative forms of wording or of legislative status,
 - (d) revoked in its entirety.
- (3) In cases where the subject matter of the EU derived law is devolved, the issue shall also be referred to the appropriate national authority.
- (4) The Committee shall consider EU retained legislation by subject matter, taking evidence from appropriate organisations, and shall report on each area to both Houses; the sequence of such reports will be a matter for the Committee after consultation with appropriate Government Ministers and the devolved administrations.
- (5) Either House may accept, reject or amend a report, and recommendations as to the status of the relevant legislation, if agreed by both Houses, will become law.
- (6) Nothing in subsections (2) to (5) precludes the Government (or a devolved administration where matters are devolved) from putting to each House of Parliament, in situations where the Government or devolved administration considers clarification of the legal status is urgent, proposals for changing the status of EU retained law or regulations in advance of receiving a relevant report from the Committee.”

Member's explanatory statement

This amendment proposes a Parliamentary process for reviewing retained EU legislation, rather than one depending on the Minister using ‘Henry VIIIth’ powers. It would establish a statutory Committee of members of both Houses to review all retained EU law and make recommendations to Parliament. Together with other amendments in the name of Lord Whitty it would also delete the end-2023 and end-2026 sunset provisions.

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

The above-named Lords give notice of their intention to oppose the Question that Clause 3 stand part of the Bill.

Member's explanatory statement

This would prevent repeal of section 4 of the EU (Withdrawal Act) (saving for rights, powers, liabilities etc under section 2(1) of the European Communities Act 1972).

After Clause 3

BARONESS JOLLY
BARONESS MCINTOSH OF PICKERING
BARONESS FINLAY OF LLANDAFF
LORD HENDY

63 After Clause 3, insert the following new Clause —

“Health and safety impact assessments

The Secretary of State must publish a health and safety impact assessment for each piece of EU-derived legislation, and retained direct EU legislation, at least 90 days before it is to be revoked.”

Clause 4

BARONESS MCINTOSH OF PICKERING

64 Clause 4, page 2, line 33, leave out “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 the time the sunset of the principle of the supremacy of EU law comes into effect.

LORD CALLANAN

65 Clause 4, page 3, line 2, leave out “183A and”

Member's explanatory statement

This amendment leaves out a reference to section 183A of the Data Protection Act 2018 (inserted by clause 43 of the Data Protection and Digital Information Bill) from section 5(A3) of the European Union (Withdrawal) Act 2018 (inserted by Clause 4 of the Bill).

LORD CALLANAN

- 66 Clause 4, page 3, leave out lines 3 and 4 and insert “(data subject’s rights and other prohibitions and restrictions);”

Member's explanatory statement

This amendment is consequential on the Minister’s amendment to Clause 4, page 3, line 2.

Clause 5

LORD FOX
BARONESS LUDFORD
BARONESS MCINTOSH OF PICKERING

The above-named Lords give notice of their intention to oppose the Question that Clause 5 stand part of the Bill.

Member's explanatory statement

This is to probe the effect of abolishing the general principles of EU law.

After Clause 5

LORD FOX
BARONESS LUDFORD

- 67 After Clause 5, insert the following new Clause—

“Extension of sunset under sections 3 to 5

- (1) A Minister of the Crown may by regulations provide that the reference to “the end of 2023” in sections 3, 4 or 5 has effect as if it were a reference to a later specified time.
- (2) Regulations under subsection (1) may not specify a time later than the end of 23 June 2026.”

Member's explanatory statement

Currently Ministers can only extend the sunset for EU-derived subordinate legislation and retained direct EU legislation. This amendment ensures that Ministers are able to extend the sunset for all retained EU rights and powers, the supremacy of EU law and the general principles of EU law under Clauses 3 to 5 of the Bill.

BARONESS LUDFORD
LORD FOX

68 After Clause 5, insert the following new Clause –

“Conditions for bringing section 3, 4 or 5 into force

- (1) None of sections 3, 4 or 5 may be brought into force unless all the following conditions have been satisfied.
- (2) The first condition is that a Minister of the Crown has, after consulting organisations and persons representative of interests substantially affected by, or with expertise in the likely legal effect of, that section on a draft of a report, laid that report before Parliament setting out, with reasons, the Minister’s view as to the likely advantages and disadvantages of bringing that section into force, setting out in particular the effect of that section on –
 - (a) the rights of and protections for consumers, workers and businesses, and protections of the environment and animal welfare,
 - (b) legal certainty, and the clarity and predictability of the law,
 - (c) the operation of the Trade and Cooperation Agreement between the United Kingdom and the EU, and UK exports of goods and services to the European Economic Area, and
 - (d) the operation of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (3) In relation to section 4, the report must take into account any regulation made or likely to be made by a relevant national authority under section 8(1).
- (4) The second condition is that a period of 60 days has passed since the report was laid before Parliament, with no account taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- (5) The third condition is that, after the end of that period, both Houses of Parliament have approved a resolution that that section come into force.
- (6) If both Houses of Parliament have approved a resolution that that section should not come into force unless it is amended in a way set out in that resolution, then the Minister may by regulations amend that section accordingly, and that section may not be brought into force until that amendment has been made.”

Member’s explanatory statement

This new Clause requires Ministers to analyse, and to explain their analysis of, the effect of the removal of retained EU law rights, the principle of supremacy of EU law, and of the general principles. It also includes opportunity for Parliamentary approval and timeframes for laying reports before both Houses.

BARONESS CHAPMAN OF DARLINGTON

69 After Clause 5, insert the following new Clause—

“Conditions for bringing sections 3, 4 and 5 into force

- (1) None of sections 3, 4 or 5 may be brought into force unless a Minister of the Crown has, after consulting organisations and persons representative of interests substantially affected by, or with expertise in the likely legal effect of, that section published a report before each House of Parliament setting out, with reasons, the Minister’s view as to the likely advantages and disadvantages of bringing that section into force, setting out in particular the effect of that section on—
 - (a) the rights of and protections for consumers, workers, and businesses, and protections of the environment and animal welfare;
 - (b) legal certainty, and the clarity and predictability of the law;
 - (c) the operation of the Trade and Cooperation Agreement between the United Kingdom and the EU, and UK exports of goods and services to the European Economic Area; and
 - (d) the operation of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (2) In relation to section 4, that report must take into account any regulation made or likely to be made by a relevant national authority under section 8(1).
- (3) The draft of the report required by subsection (1) must have been published for a period of 30 days before sections 3, 4 or 5 are brought into force.”

Member's explanatory statement

This new Clause requires Ministers to analyse, and to explain their analysis of, the effect of the removal of retained EU law rights, the principle of supremacy of EU law, and of the general principles.

LORD FOX
BARONESS LUDFORD

69A★ After Clause 5, insert the following new Clause—

“Condition for bringing section 3, 4 or 5 into force: legal certainty

- (1) None of sections 3, 4 or 5 may be brought into force unless all the following conditions have been satisfied.
- (2) The first condition is that a Minister of the Crown has asked the Law Commission to report on the effect of sections 3, 4 and 5 of this Act on legal certainty, and the clarity and predictability of the law.
- (3) The second condition is that a Minister of the Crown has laid before Parliament the report made under subsection (1), together with a response to that report from His Majesty’s Government.
- (4) The third condition is that a period of 60 days has passed since the report and its response was laid before Parliament, with no account taken of any time during

which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

- (5) The fourth condition is that, after the end of that period, both Houses of Parliament have approved a resolution that that section come into force.
- (6) If both Houses of Parliament have approved a resolution that that section should not come into force unless it is amended in a way set out in that resolution, then the Minister may by regulations amend that section accordingly, and that section may not be brought into force until that amendment has been made.”

Member's explanatory statement

This new Clause requires Ministers to ask the Law Commission to report on the effect of the removal of retained EU law rights, the principle of supremacy of EU law, and of the general principles on legal certainty and the predictability of the law. It also includes opportunity for Parliamentary approval and timeframes for laying reports before both Houses.

Clause 6

BARONESS MCINTOSH OF PICKERING

- 70 Clause 6, page 4, line 4, leave out “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

- 71 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

- 72 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.

LORD CALLANAN

73 Clause 6, page 4, line 15, at end insert –

“Retained EU law governing the CAP direct payment schemes	Assimilated law governing the CAP direct payment schemes
Retained direct EU CAP legislation	Assimilated direct CAP legislation”

Member's explanatory statement

This amendment renames bodies of law relating to direct payments to farmers as regards times after the end of 2023.

BARONESS MCINTOSH OF PICKERING

74 Clause 6, page 4, line 16, leave out “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

75 Clause 6, page 4, line 21, leave out “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.

LORD HOPE OF CRAIGHEAD
BARONESS FINLAY OF LLANDAFF

76 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.

LORD CALLANAN

77 Clause 6, page 5, line 7, at end insert –

““retained EU law governing the CAP direct payment schemes” and “retained direct EU CAP legislation” have the meaning given by section 2 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (as it has effect on the day on which this Act is passed).”

Member's explanatory statement

This amendment is consequential on the Minister's amendment to Clause 6, page 4, line 15 .

Schedule 1

LORD CALLANAN

78 Schedule 1, page 25, line 3, at end insert –

“Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))

A1 (1) The Interpretation Act (Northern Ireland) 1954 is amended as follows.

(2) In section 1(f) (meaning of “statutory provision”), for sub-paragraphs (ii) and (iii) substitute –

“(ia) any assimilated direct legislation for the time being in force in Northern Ireland;”.

(3) In section 11 (references to enactments), in subsections (1A) and (1AA), for “retained direct EU” substitute “assimilated direct”.

(4) In section 44A (definitions relating to the United Kingdom's withdrawal from the EU) –

(a) before the definition of “EU withdrawal agreement” insert –

““assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7) and 20(1) of that Act) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 and section 6 of the Retained EU Law (Revocation and Reform) Act 2023),

“assimilated obligation” means an obligation that –

(a) was created or arose by or under the EU Treaties before IP completion day, and

(b) forms part of assimilated law,
as modified from time to time;”;

(b) omit the definition of “retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation”;

(c) omit the definition of “retained EU obligation”.

Interpretation Act 1978

- B1 (1) The Interpretation Act 1978 is amended as follows.
- (2) In section 21 (interpretation etc), for “retained direct EU” (in each place it appears) substitute “assimilated direct”.
- (3) In section 23ZA (retained direct EU legislation) –
- (a) in the heading, for “Retained direct EU” substitute “Assimilated direct”;
 - (b) for “retained direct EU” (in each place it appears) substitute “assimilated direct”.
- (4) In section 23B (application of 1978 Act to Welsh legislation), in subsection (3) for “retained direct EU” substitute “assimilated direct”.
- (5) In section 23C (interpretation of the 1978 Act in relation to Welsh legislation), in subsection (1)(d) for “retained direct EU” substitute “assimilated direct”.
- (6) In Schedule 1 (words and expressions defined) –
- (a) in the entry for “Enactment”, for “retained direct EU” substitute “assimilated direct”;
 - (b) before the entry for “The Communities” (but after the italic heading “*Definitions relating to the EU and the United Kingdom's withdrawal*”), insert –

““Assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7) and 20(1) of that Act) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 and section 6 of the Retained EU Law (Revocation and Reform) Act 2023).

“Assimilated obligation” means an obligation that –

 - (a) was created or arose by or under the EU Treaties before IP completion day, and
 - (b) forms part of assimilated law,

as modified from time to time.”
 - (c) in the entry for “EEA agreement”, for “retained direct EU” substitute “assimilated direct”;
 - (d) in the entry for “EU instrument”, for “retained direct EU” substitute “assimilated direct”;
 - (e) omit the entry for “Retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation”;
 - (f) omit the entry for “Retained EU obligation”.
- (7) In Schedule 2 (application of Act to existing enactments), in paragraph 8 for “retained direct EU” substitute “assimilated direct”.

Scotland Act 1998

- C1 In section 106 of the Scotland Act 1998 (power to adapt functions), in subsection (5), for “a retained EU” substitute “an assimilated”.

Northern Ireland Act 1998

- D1 In section 27 of the Northern Ireland Act 1998 (quotas for purposes of international etc obligations) –
- (a) in subsection (1)(a), for “a retained EU” substitute “an assimilated”;
 - (b) in subsection (2), for “retained EU” substitute “assimilated”;
 - (c) in subsection (4A), for “a retained EU” substitute “an assimilated”.

Government of Wales Act 2006

- E1 (1) The Government of Wales 2006 is amended as follows.
- (2) In section 58A (executive ministerial functions), in subsection (4)(d), for “retained EU” substitute “assimilated”.
 - (3) In the italic heading before section 80 (retained EU obligations, human rights and international obligations etc) for “Retained EU” substitute “Assimilated”.
 - (4) In section 80 (retained EU obligations) –
 - (a) in the heading, for “Retained EU” substitute “Assimilated”;
 - (b) in subsection (1), for “A retained EU” substitute “An assimilated”;
 - (c) in subsection (2), for “a retained EU” substitute “an assimilated”;
 - (d) in subsection (3) –
 - (i) for “a retained EU” substitute “an assimilated”;
 - (ii) for “the retained EU” substitute “the assimilated”;
 - (e) in subsection (7) –
 - (i) for “a retained EU” substitute “an assimilated”;
 - (ii) for “the retained EU” substitute “the assimilated”.

Legislative and Regulatory Reform Act 2006

- F1 (1) The Legislative and Regulatory Reform Act 2006 (as amended by this Act) is amended as follows.
- (2) In section 1(6) (power to remove or reduce burdens: definition of “legislation”), in paragraph (ab), for “retained direct EU” substitute “assimilated direct”.
 - (3) In section 12 (procedure: introductory), in subsection (3), for “retained direct EU” substitute “assimilated direct”.

Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)

- G1 (1) The Interpretation and Legislative Reform (Scotland) Act 2010 is amended as follows.
- (2) In section 1 (application of Part 1), in subsection (4), for “retained direct EU” (in each place it appears) substitute “assimilated direct”.

- (3) In section 55 (consequential revocation of transitional Orders) –
- (a) in subsection (2A), for “retained direct EU” substitute “assimilated direct”;
 - (b) in subsection (2B)(d) –
 - (i) before the entry for “EU withdrawal agreement” (but after the italic heading), insert –

““assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7) and 20(1) of that Act) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 and section 6 of the Retained EU Law (Revocation and Reform) Act 2023).

“assimilated obligation” means an obligation that –
 - (a) was created or arose by or under the EU Treaties before IP completion day, and
 - (b) forms part of assimilated law, as modified from time to time.”; - (ii) omit the entry for “retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation”;
 - (iii) omit the entry for “retained EU obligation”;
 - (iv) in the entry for “EEA agreement”, for “retained direct EU” substitute “assimilated direct”;
 - (v) in the entry for “EU instrument”, for “retained direct EU” substitute “assimilated direct”.
- (4) In Schedule 1 (definitions of words and expressions) –
- (a) in the entry for “enactment”, for “retained direct EU” (in each place it appears) substitute “assimilated direct”;
 - (b) in the entry for “subordinate legislation”, for “retained direct EU” substitute “assimilated direct”;
 - (c) before the entry for “EU withdrawal agreement” (but after the italic heading “*Definitions relating to EU exit*”), insert –

““assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7) and 20(1) of that Act) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 and section 6 of the Retained EU Law (Revocation and Reform) Act 2023).

“assimilated obligation” means an obligation that –
 - (a) was created or arose by or under the EU Treaties before IP completion day, and
 - (b) forms part of assimilated law,

- as modified from time to time.”;
- (d) omit the entry for “retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation”;
 - (e) omit the entry for “retained EU obligation”;
 - (f) in the entry for “EU instrument”, for “retained direct EU” substitute “assimilated direct”.

Member's explanatory statement

This amendment contains amendments that are consequential on Clause 6 of the Bill (as amended by the Minister's amendment at Clause 6, page 4, line 15).

LORD CALLANAN

79 Schedule 1, page 28, line 16, after “paragraphs” insert “2A(6A)(b),”

Member's explanatory statement

This amendment is consequential on Clause 6 of the Bill (as amended by the Minister's amendment to Clause 6, page 4, line 15).

LORD CALLANAN

80 Schedule 1, page 28, line 24, at end insert—

“Legislation (Wales) Act 2019 (anaw 4)

- 1A (1) The Legislation (Wales) Act 2019 is amended as follows.
- (2) In section 3 (legislation to which Part 2 applies), in subsection (2)(b)—
 - (a) in the Welsh language text, for “UE a ddargedwir” substitute “a gymathwyd”;
 - (b) in the English language text, for “retained direct EU” substitute “assimilated direct”.
 - (3) In section 32 (amendments made to or by Welsh legislation), in subsection (3)—
 - (a) in the Welsh language text, for “UE a ddargedwir” substitute “a gymathwyd”;
 - (b) in the English language text, for “retained direct EU” substitute “assimilated direct”.
 - (4) In section 39 (power to make subordinate legislation in different forms), in subsection (4)(a)—
 - (a) in the Welsh language text, for “UE a ddargedwir” substitute “a gymathwyd”;
 - (b) in the English language text, for “retained direct EU” substitute “assimilated direct”.
 - (5) In section 40 (combining subordinate legislation), in subsection (4)(a)—
 - (a) in the Welsh language text, for “UE a ddargedwir” substitute “a gymathwyd”;

- (b) in the English language text, for “retained direct EU” substitute “assimilated direct”.
- (6) In Schedule 1 (definition of words and expressions), in the table—
- (a) in the Welsh language text—
- (i) for the entry for “cyfraith UE a ddargedwir” substitute—
- | | |
|---|--|
| <p>“cyfraith a gymathwyd (<i>assimilated law</i>)</p> | <p>mae i “cyfraith a gymathwyd” yr ystyr a roddir i “assimilated law” gan adran 6(7) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) (gweler hefyd baragraff 7 o Atodlen 1 i Ddeddf Taliadau Uniongyrchol i Ffermwyr (Parhad Deddfwriaethol) 2020 (p. 2) ac adran 6 o Ddeddf Cyfraith yr UE a Ddargedwir (Dirymu a Diwygio) 2023”;</p> |
|---|--|
- (ii) in the entries for “cytundeb yr AEE”, “deddfiad”, “is-ddeddfwriaeth” and “offeryn UE”, for “UE a ddargedwir” substitute “a gymathwyd”;
- (iii) for the entry for “deddfwriaeth uniongyrchol UE a ddargedwir” substitute—
- | | |
|---|---|
| <p>“deddfwriaeth uniongyrchol a gymathwyd (<i>assimilated direct legislation</i>)</p> | <p>mae i “deddfwriaeth uniongyrchol a gymathwyd” yr ystyr a roddir i “assimilated direct legislation” gan adran 20(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) (gweler hefyd baragraff 7 o Atodlen 1 i Ddeddf Taliadau Uniongyrchol i Ffermwyr (Parhad Deddfwriaethol) 2020 (p. 2) ac adran 6 o Ddeddf Cyfraith yr UE a Ddargedwir (Dirymu a Diwygio) 2023”;</p> |
|---|---|
- (iv) for the entry for “mân ddeddfwriaeth uniongyrchol UE a ddargedwir” and “prif ddeddfwriaeth uniongyrchol UE a ddargedwir” substitute—
- | | |
|--|---|
| <p>“mân ddeddfwriaeth uniongyrchol a gymathwyd (<i>assimilated direct minor legislation</i>)</p> | <p>mae i “mân ddeddfwriaeth uniongyrchol a gymathwyd” yr ystyr a roddir i “assimilated direct minor legislation” ac mae i “prif ddeddfwriaeth uniongyrchol a gymathwyd” yr ystyr a roddir i</p> |
| <p>prif ddeddfwriaeth uniongyrchol a gymathwyd (<i>assimilated direct principal legislation</i>)”;</p> | <p>“assimilated direct principal legislation” gan adran 20(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) (gweler hefyd baragraff 7 o Atodlen 1 i Ddeddf Taliadau Uniongyrchol i</p> |

Ffermwyr (Parhad
Deddfwriaethol) 2020 (p. 2) ac
adran 6 o Ddeddf Cyfraith yr UE
a Ddargedwir (Dirymu a
Diwygio) 2023)

(v) for the entry for “rhwymedigaeth UE a ddargedwir” substitute –

<p>“rhwymedigaeth a gymathwyd (<i>assimilated obligation</i>)</p>	<p>ystyr “rhwymedigaeth a gymathwyd” yw rhwymedigaeth –</p> <p>(a) a grëwyd neu a gododd gan neu o dan Gytuniadau UE cyn diwrnod cwblhau’r cyfnod gweithredu, a</p> <p>(b) sy’n ffurfio rhan o’r gyfraith a gymathwyd, fel y’i haddesir o bryd i’w gilydd”;</p>
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(b) in the English language text –

(i) after the entry for “Assembly Measure” insert –

<p>“assimilated direct legislation (<i>deddfwriaeth uniongyrchol a gymathwyd</i>), assimilated direct minor legislation (<i>mân ddeddfwriaeth uniongyrchol a gymathwyd</i>), and assimilated direct principal legislation (<i>prif ddeddfwriaeth uniongyrchol a gymathwyd</i>) assimilated law (<i>cyfraith a gymathwyd</i>)</p>	<p>“assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” have the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018 (c. 16) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2) and section 6 of the Retained EU Law (Revocation and Reform) Act 2023)</p> <p>“assimilated law” has the meaning given by section 6(7) of the European Union (Withdrawal) Act 2018 (c. 16) (see also paragraph 7 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2) and section 6 of the Retained EU Law (Revocation and Reform) Act 2023)</p>
<p>assimilated obligation (<i>rhwymedigaeth a gymathwyd</i>)</p>	<p>“assimilated obligation” means an obligation that –</p> <p>(a) was created or arose by or under the EU Treaties before</p>

- implementation period
completion day, and
- (b) forms part of assimilated law,
as modified from time to time”;
- (ii) in the entries for “EEA agreement”, “enactment”, “EU instrument” and “subordinate legislation”, for “retained direct EU” substitute “assimilated direct”;
- (iii) omit the entries for “retained direct EU legislation”, “retained direct minor EU legislation”, “retained direct principal EU legislation”, “retained EU law” and “retained EU obligation”.

Direct Payments to Farmers (Legislative Continuity) Act 2020

- 1B (1) The Direct Payments to Farmers (Legislative Continuity) Act 2020 is amended as follows.
- (2) In section 2 (interpretation and status) –
- (a) in subsection (1) –
 - (i) for “retained EU” substitute “assimilated”;
 - (ii) for “EU law retained under that Act” substitute “assimilated law within the meaning given by that section”;
 - (b) in subsection (3) –
 - (i) for “retained direct EU” substitute “assimilated direct”;
 - (ii) for “direct EU legislation retained under that Act” substitute “assimilated direct legislation within the meaning given by section 20(1) of that Act”;
 - (c) in subsection (5), in the table –
 - (i) in the entry for “retained EU law”, for “retained EU” (in each place it appears) substitute “assimilated”;
 - (ii) in the entry for “retained direct EU legislation”, for “retained direct EU” (in each place it appears) substitute “assimilated direct”;
 - (iii) in the entry for “retained direct principal EU legislation”, for “retained direct principal EU” substitute “assimilated direct principal”;
 - (iv) in the entry for “retained direct minor EU legislation”, for “retained direct minor EU” substitute “assimilated direct minor” and for “retained direct EU” substitute “assimilated direct”;
 - (d) in subsection (6) –
 - (i) for “retained” (in the first and second places it appears) substitute “assimilated”;
 - (ii) in paragraph (a), for “2, 3 or 4” substitute “2 or 3”;
 - (e) in subsection (7), for “retained EU” (in each place it appears) substitute “assimilated”;
 - (f) in subsection (8)(b), for “retained direct EU” substitute “assimilated direct”;

- (g) in subsection (10) –
 - (i) in the definition of “retained EU law governing the CAP direct payment schemes”, for “retained EU” substitute “assimilated”;
 - (ii) in the definition of “retained direct EU CAP legislation”, for “retained direct EU” substitute “assimilated direct”.
- (3) In section 3 (regulations), in subsections (4), (9) and (10), for “retained EU” substitute “assimilated”.
- (4) In section 8 (interpretation) –
 - (a) before the definition of “CAP direct payment schemes” insert –
 - ““assimilated direct CAP legislation” has the meaning given by section 2;
 - “assimilated law governing the CAP direct payment schemes” has the meaning given by section 2;”
 - (b) in the definition of “enactment”, in paragraph (d), for “retained direct EU” substitute “assimilated direct”;
 - (c) omit the definitions of “retained direct EU CAP legislation” and “retained EU law governing the CAP direct payment schemes”.
- (5) In Schedule 1 (consequential provision) –
 - (a) omit paragraphs 3 to 6;
 - (b) in paragraph 7 –
 - (i) the existing text becomes sub-paragraph (2) of that paragraph;
 - (ii) before sub-paragraph (2), insert –
 - “(1) Sub-paragraph (2) applies in relation to the definitions of “assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation” in each of –
 - (a) Schedule 1 to the Interpretation Act 1978;
 - (b) section 55(2B)(d) of and Schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10);
 - (c) Schedule 1 to the Legislation (Wales) Act 2019 (anaw 4);
 - (d) section 44A of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.).”;
 - (iii) in sub-paragraph (2), for “For the purposes of the definitions amended by paragraphs 3 to 6” substitute “For the purposes of those definitions”;
 - (iv) in paragraph (a) of sub-paragraph (2), for “retained EU” substitute “assimilated”;
 - (v) in paragraph (b) of sub-paragraph (2), for “retained direct EU” substitute “assimilated direct”;
 - (vi) in paragraphs (c) and (d) of sub-paragraph (2), for “retained direct principal EU” substitute “assimilated direct principal”;

- (vii) in paragraph (d) of sub-paragraph (2), for “retained direct minor EU” substitute “assimilated direct minor”;
- (c) In paragraph 8—
 - (i) omit “3 or”;
 - (ii) for “the terms mentioned in paragraph 3” substitute ““assimilated law”, “assimilated direct legislation”, “assimilated direct minor legislation” and “assimilated direct principal legislation””.

Member's explanatory statement

This amendment contains amendments that are consequential on Clause 6 of the Bill (as amended by the Minister's amendment to Clause 6, page 4, line 15).

Clause 7

BARONESS MCINTOSH OF PICKERING

- 81 Clause 7, page 5, line 30, leave out “must” and insert “may”

Member's explanatory statement

This amendment restores discretion to the higher court.

BARONESS MCINTOSH OF PICKERING

- 82 Clause 7, page 5, leave out lines 32 and 33

Member's explanatory statement

This amendment deletes new subsection (5)(a) inserted into section 6 of the EUWA by clause 7.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

- 83 Clause 7, page 5, leave out lines 34 and 35

Member's explanatory statement

Inserted paragraph (b), which this amendment seeks to remove, would undermine legal certainty and risk bringing the judiciary into the political arena.

BARONESS MCINTOSH OF PICKERING

- 84 Clause 7, page 5, line 36, leave out “proper”

Member's explanatory statement

This amendment deletes the word “proper” from the new subsection (5) inserted into section 6 of the EUWA by clause 7.

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
BARONESS LUDFORD

85 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.

BARONESS CHAPMAN OF DARLINGTON

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

- “(d) the undesirability of disturbing settled understandings of the law, on the basis of which individuals and businesses may have made decisions of importance to them;
- (e) the importance of legal certainty, clarity and predictability; and
- (f) the principle that significant changes in the law should be made by Parliament (or, as the case may be, the relevant devolved legislature).”

Member's explanatory statement

This amendment adds further conditions for higher courts to regard when deciding to diverge from retained EU case law.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

87 Clause 7, page 6, line 2, leave out “or influenced”

Member's explanatory statement

The words which this amendment seeks to remove would undermine legal certainty because they would extend the considerations to which the court may have regard to wide areas of policy.

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
BARONESS LUDFORD

88 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.

BARONESS CHAPMAN OF DARLINGTON

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

- “(d) the undesirability of disturbing settled understandings of the law, on the basis of which individuals and businesses may have made decisions of importance to them;
- (e) the importance of legal certainty, clarity and predictability; and
- (f) the principle that significant changes in the law should be made by Parliament (or, as the case may be, the relevant devolved legislature).”

Member's explanatory statement

This amendment adds further conditions for higher courts to regard when deciding to diverge from retained domestic case law.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

90 Clause 7, page 7, line 6, leave out “must” and insert “may”

Member's explanatory statement

This amendment seeks to preserve the court's discretion to refuse to accept a reference which is a necessary safeguard against abuse.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

91 Clause 7, page 7, line 9, at end insert “and –

- (c) ought to be considered at that time,”

Member's explanatory statement

This amendment seeks to introduce a further test currently available to the Supreme Court which is an aid to efficiency and the saving of costs: see also section 40A of the Court of Session Act 1988.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

92 Clause 7, page 7, line 12, leave out “must” and insert “may”

Member's explanatory statement

This amendment seeks to preserve the court's discretion to refuse to accept a reference which is a necessary safeguard against abuse.

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

- 93 Clause 7, page 7, line 14, leave out “(4)(a) and (b)”, and insert “(4)(a), (b) and (c),”

Member's explanatory statement

This amendment is consequential on the amendment at Clause 7, page 7, line 9.

BARONESS MCINTOSH OF PICKERING

- 94 Clause 7, page 8, line 1, leave out from beginning to end of line 5 on page 10

Member's explanatory statement

This amendment deletes new section 6B which is inserted in the EUWA by clause 7(8).

LORD HOPE OF CRAIGHEAD
BARONESS MCINTOSH OF PICKERING

- 95 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
BARONESS MCINTOSH OF PICKERING

- 96 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
BARONESS MCINTOSH OF PICKERING

- 97 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
BARONESS MCINTOSH OF PICKERING

- 98 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
BARONESS MCINTOSH OF PICKERING

- 99 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”.

LORD WHITTY
BARONESS LUDFORD

- 99A Leave out Clause 7 and insert the following new Clause –

“Retained EU case law

Court case precedents relying in whole or in part on retained EU case law which were established up until the departure of the United Kingdom from the European Union remain valid until such time as the relevant legislation is changed by a UK legislative process.”

Member's explanatory statement

This maintains the principle that case law established under laws in place at the time of the case remains valid until that legislation is altered by statute.

Clause 8

BARONESS MCINTOSH OF PICKERING

- 100 Clause 8, page 11, line 16, leave out subsection (4)

Member's explanatory statement

This is a consequential amendment.

Clause 9

LORD HOPE OF CRAIGHEAD
LORD JUDGE
LORD THOMAS OF CWMGIEDD

101 Clause 9, page 11, leave out lines 34 to 41

Member's explanatory statement

This is a probing amendment which seeks to clarify the circumstances in which the court would be expected to use these powers.

Clause 10

LORD FOX
BARONESS LUDFORD
BARONESS CHAPMAN OF DARLINGTON
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 10 stand part of the Bill.

Member's explanatory statement

This is based on a recommendation from the Delegated Powers and Regulatory Reform Committee's report on the Bill.

Clause 12

BARONESS MCINTOSH OF PICKERING

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

- “(1A) Before making regulations under subsection (1) a relevant national authority must consult with any person who may be affected by the proposed regulations.
- (1B) If a Minister of the Crown proposes to make regulations under subsection (1) which concern devolved matters the Minister must, before making the regulations, consult with the relevant national authority.
- (1C) A relevant national authority and, where subsection (1B) applies, a Minister of the Crown must publish the results of any consultation conducted under this section.”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS HUMPHREYS

103 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.

BARONESS MCINTOSH OF PICKERING

104 Clause 12, page 16, line 20, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This amendment extends the statutory deadline within which a restatement of any secondary retained EU law may be made.

LORD FOX
BARONESS LUDFORD
BARONESS CHAPMAN OF DARLINGTON
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

Member's explanatory statement

This is based on a recommendation from the Delegated Powers and Regulatory Reform Committee's report on the Bill.

Clause 13

BARONESS MCINTOSH OF PICKERING

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

“(1A) Before making regulations under subsection (1) a relevant national authority must consult with any person who may be affected by the proposed regulations.

(1B) If a Minister of the Crown proposes to make regulations under subsection (1) which concern devolved matters the Minister must, before making the regulations, consult with the relevant national authority.

- (1C) A relevant national authority and, where subsection (1B) applies, a Minister of the Crown, must publish the results of any consultation conducted under subsection (1A) or (1B).”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS HUMPHREYS

106 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.

BARONESS MCINTOSH OF PICKERING

107 Clause 13, page 17, line 16, at end insert –

- “(8A) Before making regulations under subsection (8) a relevant national authority must consult with any person who may be affected by the proposed regulations.
- (8B) If a Minister of the Crown proposes to make regulations under subsection (8) which concern devolved matters the Minister must before making the regulations consult with the relevant national authority.
- (8C) A relevant national authority and, where subsection (8B) applies, a Minister of the Crown must publish the results of any consultation conducted under subsection (8A) or (8B).”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations under subsection 13(8) before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS MCINTOSH OF PICKERING

108 Clause 13, page 17, line 17, leave out “23 June 2026” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This amendment extends the statutory deadline within which a restatement of assimilated law or reproduction of sunsetted retained EU rights, powers, liabilities may be made.

BARONESS LAWLOR

- 108A★ Clause 13, page 17, line 17, leave out “23 June 2026” and insert “the end of 2024”

BARONESS MCINTOSH OF PICKERING

- 109 Clause 13, page 17, line 24, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This amendment is consequential on another amendment in the name of Baroness McIntosh of Pickering.

LORD FOX
BARONESS LUDFORD
BARONESS CHAPMAN OF DARLINGTON
BARONESS MEACHER

The above-named Lords give notice of their intention to oppose the Question that Clause 13 stand part of the Bill.

Member's explanatory statement

This is based on a recommendation from the Delegated Powers and Regulatory Reform Committee's report on the Bill

Clause 14

BARONESS MCINTOSH OF PICKERING

- 110 Clause 14, page 18, line 13, leave out subsection (7)

Member's explanatory statement

This amendment deletes clause 14(7).

After Clause 14

LORD FOX
BARONESS LUDFORD

111 After Clause 14, insert the following new Clause –

“Conditions on restatement

- (1) No regulations may be made under section 12(1) or 13(1) unless the following conditions have been satisfied.
- (2) The first condition is that the relevant national authority has consulted on a draft of the regulations with organisations and persons representative of interests substantially affected by, or with expertise in the likely legal effect of, those regulations.
- (3) The second condition is that, after that consultation has concluded, the relevant national authority has laid a report before each House of Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru, or the Northern Ireland Assembly) setting out –
 - (a) the authority’s view as to whether the proposed regulations make any change in the rights of and protections for consumers, workers, and businesses, and protections of the environment and animal welfare, and the reasons for that view;
 - (b) whether in making the regulations the national authority has considered using its discretion under section 12(6), 13(6), or 14(2), (3) or (4), and if so, the reason why it has or has not exercised that discretion.
- (4) The third condition is that a period of 60 days has passed since that report was laid, with no account to be taken of any time during which Parliament (or, as the case may be, the Scottish Parliament, the Senedd, or the Northern Ireland Assembly) is dissolved or prorogued or during which it was adjourned for more than four days, and where it was laid before Parliament, paragraph 8(11)(a) of Schedule 4 applies in determining the commencement of that period.”

Member's explanatory statement

This amendment requires the national authority to consult on a draft text of “restatement” regulations, and to set out its reasoning on the choices made when drafting those regulations to Parliament or the relevant devolved legislature.

Clause 15

BARONESS MCINTOSH OF PICKERING

112 Clause 15, page 18, line 31, at end insert –

- “(1A) Before making regulations under subsection (1) a relevant national authority must consult with any person who may be affected by the proposed regulations.

- (1B) If a Minister of the Crown proposes to make regulations under subsection (1) which concern devolved matters the Minister must before making the regulations consult with the relevant national authority.
- (1C) A relevant national authority and, where subsection (1B) applies, a Minister of the Crown must publish the results of any consultation conducted under subsection (1A) or (1B).”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations under subsection 15(1) before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS CHAPMAN OF DARLINGTON

113 Clause 15, page 18, line 31, at end insert –

- “(1A) Subsection (1) does not apply to –
- (a) the Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005,
 - (b) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations,
 - (c) the Consumer Rights (Payment Surcharges) Regulations 2012,
 - (d) the Electrical Equipment (Safety) Regulations 2016,
 - (e) the Toys (Safety) Regulations 2011,
 - (f) the Control of Asbestos Regulations 2012,
 - (g) the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015,
 - (h) the Cocoa and Chocolate Products (England) Regulations 2003,
 - (i) Commission Regulation (EU) No 748/2012 of 3 August 2012,
 - (j) the Representation of the People (England and Wales) Regulations 2001, and
 - (k) the *Bauer* [C-168/18] and *Hampshire* [C-17/17] judgments.”

Member's explanatory statement

This amendment would exclude certain legislation which provides for consumer protections from the power to revoke without replacement in subsection (1).

LORD FOX
BARONESS LUDFORD

114 Clause 15, page 18, line 35, leave out “objectives” and insert “effects”

Member's explanatory statement

Clause 15 gives a power to national authorities to replace EU law with provisions that achieve the same or similar objectives. This amendment aims to minimise significant policy changes.

BARONESS MCINTOSH OF PICKERING

115 Clause 15, page 18, line 35, at end insert –

- “(2A) Before making regulations under subsection (2) a relevant national authority must consult with any person who may be affected by the proposed regulations.
- (2B) If a Minister of the Crown proposes to make regulations under subsection (2) which concern devolved matters the Minister must before making the regulations consult with the relevant national authority.
- (2C) A relevant national authority and a Minister of the Crown must publish the results of any consultation conducted under subsection (2A) or (2B).”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations under subsection 15(2) before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS MCINTOSH OF PICKERING

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

- “(3A) Before making regulations under subsection (3) a relevant national authority must consult with any person who may be affected by the proposed regulations.
- (3B) If a Minister of the Crown proposes to make regulations under subsection (3) which concern devolved matters the Minister must before making the regulations consult with the relevant national authority.
- (3C) A relevant national authority and a Minister of the Crown must publish the results of any consultation conducted under subsection (3A) or (3B).”

Member's explanatory statement

This amendment requires a relevant national authority or a Minister of the Crown to consult with those who may be affected by regulations under subsection 15(3) before making them. All relevant national authorities are required to publish the results of the consultation.

BARONESS RANDERSON
LORD BRUCE OF BENNACHIE

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

- “(3A) Regulations under subsections (2) or (3) may not be made if they apply to an instrument, or a provision of an instrument, which is subject to an agreed Common Framework unless it has been subject to the full process agreed between His Majesty's Government and the devolved administrations for that instrument.”

Member's explanatory statement

This amendment is to probe the application of Common Framework Agreements to retained EU law.

BARONESS HUMPHREYS

118 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.

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

119 Clause 15, page 19, line 16, at end insert –

“(iii) effect substantial policy change so far as it relates to human rights, equality or environmental protection legislation with effect in Northern Ireland.”

Member's explanatory statement

This amendment would ensure that substantial policy change with regards to human rights, equality or environmental protection in Northern Ireland may not be effected via the exercise of delegated powers.

LORD FOX
BARONESS LUDFORD
BARONESS CHAPMAN OF DARLINGTON

120 Clause 15, page 19, line 17, leave out subsection (5)

Member's explanatory statement

This amendment is to probe the benefits of removing regulatory burdens.

THE EARL OF LINDSAY
BARONESS CRAWLEY

121 Clause 15, page 19, line 17, leave out subsections (5) and (6)

Member's explanatory statement

This amendment removes the requirement for replacement regulations to not increase the overall regulatory burden.

LORD WHITTY

121A Clause 15, page 19, line 17, leave out subsections (5) to (11)

Member's explanatory statement

This would remove the requirement that any redrafting of the EU law would have to reduce regulatory burdens and reduce business costs with no regard for effectiveness.

BARONESS MCINTOSH OF PICKERING

122 Clause 15, page 19, line 27, leave out “23 June 2026” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This amendment extends the statutory deadline within which the powers to revoke or replace may be used.

BARONESS LAWLOR

122A★ Clause 15, page 19, line 27, leave out “23 June 2026” and insert “the end of 2024”

THE EARL OF LINDSAY
BARONESS CRAWLEY

123 Clause 15, page 19, leave out lines 29 to 35.

Member's explanatory statement

See the statement relating to the member's amendment to clause 15, page 19, line 17, to remove the requirement for replacement regulations to not increase the overall regulatory burden.

BARONESS MCINTOSH OF PICKERING

124 Clause 15, page 19, line 43, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This is a consequential amendment.

BARONESS MCINTOSH OF PICKERING

125 Clause 15, page 20, line 1, leave out “the end of 2023” and insert “11:59 pm on 31 December 2028”

Member's explanatory statement

This is a consequential amendment.

LORD FOX
BARONESS CHAPMAN OF DARLINGTON
LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD

The above-named Lords give notice of their intention to oppose the Question that Clause 15 stand part of the Bill.

Member's explanatory statement

This is based on a recommendation from the Delegated Powers and Regulatory Reform Committee's report on the Bill.

After Clause 15

BARONESS PARMINTER
LORD KREBS
LORD RANDALL OF UXBRIDGE
BARONESS BENNETT OF MANOR CASTLE

126 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.

Clause 16

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

127 Clause 16, page 20, line 9, at end insert –

“(1A) Regulations under subsection (1) may not be used to effect substantial policy change so far as it relates to human rights, equality or environmental protection legislation with effect in Northern Ireland.”

Member's explanatory statement

This amendment would ensure that substantial policy change with regards to human rights, equality or environmental protection in Northern Ireland may not be effected via the exercise of delegated powers.

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Clause 16 stand part of the Bill.

After Clause 16

BARONESS LUDFORD
LORD FOX

128 After Clause 16, insert the following new Clause –

“Conditions on the exercise of powers under sections 15 and 16

- (1) A national authority may not exercise powers under section 15 or 16 unless the following conditions are met.
- (2) The first condition is that the relevant national authority has consulted such organisations as appear to it to be representative of interests substantially affected by its proposal, and any such other persons as it considers appropriate, on a draft of those regulations.
- (3) The second condition is that the national authority has, after that consultation has concluded and after considering any representations made to it, laid a draft of the regulations before each House of Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly), together with a report setting out, with reasons, the authority’s view as to the likely advantages and disadvantages of making those regulations, setting out in particular –
 - (a) a summary of the objectives and effect of those regulations as compared to the instrument that they will revoke, replace or modify,
 - (b) any difference as between that instrument and the proposed regulations in terms of protections for consumers, workers, businesses, the environment, or animal welfare,

- (c) any benefits which are expected to flow from the revocation or replacement of that instrument,
 - (d) the consultation undertaken as required by subsection (2),
 - (e) any representations received as a result of that consultation,
 - (f) the reason why the national authority considers that it is appropriate to make those regulations, having considered those representations,
 - (g) the reasons why the national authority considers that section 15(5) (overall reduction in burdens) does not preclude the making of the regulations, explaining what burdens are reduced or increased as a result of the making of the regulations,
 - (h) the compatibility of the revocation, modification, or replacement of that instrument with obligations in the Trade and Cooperation Agreement between the United Kingdom and the EU, and the likely effect on UK exports of goods or services to the European Economic Area, and
 - (i) the likely effect of the revocation, modification, or replacement of that instrument on the operation of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (4) The third condition is that a period of 60 days has passed since those draft regulations or that report were laid as required by subsection (3) with no account to be taken of any time during which Parliament (or, as the case may be, the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly) is dissolved or prorogued or during which either House or that body is adjourned for more than four days, and where they were laid before Parliament, paragraph 8(11)(a) of Schedule 3 applies in determining the commencement of that period.
- (5) The fourth condition is that the national authority has considered any representations made during the period provided for by subsection (4) and, in particular, any resolution or report of, or of any committee of, either House of Parliament (or, as the case may be of the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly) with regard to the proposals, and has published its reasons for accepting or rejecting any such representations, resolution, or report.”

Member's explanatory statement

This new Clause requires the relevant national authorities to consult with key stakeholders on proposed regulations revoking or replacing REUL, and to show Parliament their assessment of the impact of the changes.

LORD KREBS
LORD ROOKER
BARONESS BOYCOTT

129

After Clause 16, insert the following new Clause –

“Powers relating to retained EU law and assimilated law: food standards

Regulations may not be made by a relevant national authority under section 12, 13, 15 or 16 unless the relevant national authority –

- (a) is satisfied that the regulations will not weaken or reduce the level of protection of consumers in relation to the safety, composition or labelling of food or any particular aspects of such protection subsisting immediately before the time when the regulations would apply, and
- (b) has complied with the requirements in section 48(4) and (4A) of the Food Safety Act 1990 as to consultation and advice from the Food Standards Agency, Food Standards Scotland and other relevant organisations, which are to be deemed applicable to any such regulations proposed in the areas falling within paragraph (a).”

Member's explanatory statement

This amendment has two effects. It ensures that any changes to regulations do not weaken consumer protection in relation to food and it requires the Government to seek the advice of the Food Standards Agency and Food Standards Scotland as well as other relevant bodies on whether or not consumer protections are maintained.

After Clause 17

BARONESS HAYMAN OF ULLOCK
LORD KREBS
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
BARONESS BENNETT OF MANOR CASTLE

130 After Clause 17, insert the following new Clause –

“Maintaining environmental standards

- (1) The relevant national authority may only make provision in relation to the regulations specified in subsection (4) if satisfied that the provision does not reduce the level of environmental protection arising from the retained EU law to which the provision relates.
- (2) In making regulations under this section the relevant national authority must have regard to the particular importance of –
 - (a) furthering the conservation and enhancement of biodiversity,
 - (b) improving water quality,
 - (c) protecting people and the environment from hazardous chemicals.
- (3) Before making regulations under this section the relevant national authority must lay before the relevant Parliament or Assembly, and publish, a statement explaining why the relevant national authority is satisfied as mentioned in subsection (1).
- (4) The regulations are –
 - (a) the Conservation of Habitats and Species Regulations 2017,
 - (b) the Conservation of Offshore Marine Habitats and Species Regulations 2017,
 - (c) the REACH Regulation (1907/2006),
 - (d) the REACH Enforcement Regulations 2008, and
 - (e) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”

Member's explanatory statement

This amendment would ensure that the powers to amend these important pieces of retained EU environment law must not reduce the level of environmental protection provided by them. It would also specify that when exercising these powers, authorities must have regard to the conservation and enhancement of biodiversity, improvement of water quality and protection of people and the environment from hazardous chemicals.

LORD KREBS
LORD ROOKER
BARONESS BOYCOTT

131 After Clause 17, insert the following new Clause –

“Implementation reports on food issues

In section 4 of the Food Standards Act 1999 (annual and other reports), after subsection (1) insert –

“(1A) The report prepared under subsection (1) must include a detailed assessment of the impact of the implementation of the provisions of the Retained EU Law (Revocation and Reform) Act 2023 in the areas of food safety, composition, labelling and other relevant areas of concern to consumers related to food.”

Member's explanatory statement

This amendment will require the Food Standards Agency and Food Standards Scotland to prepare an annual report to Parliament on the impact of the REUL Bill on consumer protection and concerns in relation to food.

BARONESS CHAPMAN OF DARLINGTON

132 After Clause 17, insert the following new Clause –

“Criteria for use of powers

At least 30 days before using any of the powers contained within sections 12 to 17, a Minister of the Crown must publish a report which contains a set of criteria which relevant national authorities must have regard to when determining whether or not to use each respective power.”

Member's explanatory statement

This requires the Government to publish criteria on how decisions whether to retain amend or remove retained EU law will be made.

Clause 19

BARONESS MCINTOSH OF PICKERING

133 Clause 19, page 21, line 31, leave out “appropriate” and insert “necessary”

Member's explanatory statement

This amendment deletes “appropriate” and replaces it with “necessary”.

BARONESS MCINTOSH OF PICKERING

134 Clause 19, page 21, line 33, at end insert –

- “(3) Before making regulations under subsection (1) a Minister of the Crown must consult with the other relevant national authorities and any other person who may be affected by the proposed regulations.
- (4) A Minister of the Crown must publish the results of any consultation conducted under subsection (3).”

Member's explanatory statement

This amendment requires a Minister of the Crown to consult with the other relevant national authorities and interested persons before making regulations under Clause 19.

Clause 20

LORD LUCAS

134A★ Clause 20, page 22, line 9, at end insert –

- “(6) No provision may be made by a relevant national authority under this Act in relation to the environment unless the relevant national authority considers that the overall effect of the changes made by it under this Act (including the proposed provision and changes made previously) improve environmental protection.”

Schedule 3

LORD HOPE OF CRAIGHEAD

135 Schedule 3, page 33, line 9, at end insert –

- “(3A) 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.
- (3B) 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 which are conferred on Ministers of the Crown in devolved areas under this Schedule so that they may only be exercised with the consent of the Scottish or Welsh Ministers.

Schedule 4

LORD FOX
BARONESS LUDFORD
BARONESS CHAPMAN OF DARLINGTON

- 136 Schedule 4, page 37, line 4, after “containing” insert –
- “(a) regulations under section 2, or
(b)”

Member's explanatory statement

This amendment is based on a recommendation from the Delegated Powers and Regulatory Reform Committee’s report on the Bill. The Committee considers that “given the importance of the power, we consider that its use merits affirmative procedure scrutiny.”

BARONESS LUDFORD

- 137 Schedule 4, page 37, line 24, at end insert –
- “(za) regulations under section 3 (abolition of retained EU rights, powers, liabilities etc).”

Member's explanatory statement

This amendment is consequential on Baroness Ludford’s amendment to Clause 3 and would ensure any instrument abolishing rights, powers, liabilities etc would be subject to the affirmative procedure.

LORD CALLANAN

- 138 Schedule 4, page 37, line 37, leave out “1” and insert “(Exceptions to sunset under section 1)”

Member's explanatory statement

This amendment is consequential on the Minister’s amendments at Clause 1, page 1, line 7 and After Clause 1. It also makes procedural provision in relation to subsection (1)(c) of new Clause (Exceptions to sunset under section 1).

LORD HODGSON OF ASTLEY ABBOTTS
BARONESS RANDEKSON
LORD HUTTON OF FURNESS

139 Schedule 4, page 39, line 17, leave out “10” and insert “15”

Member's explanatory statement

This amendment, together with amendment 140, would extend the period available to committees of the two Houses to discharge the sifting function provided for under the Bill, as recommended by the Secondary Legislation Scrutiny Committee in paragraph 59 of its 28th Report “Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill”.

LORD HODGSON OF ASTLEY ABBOTTS
BARONESS RANDEKSON
LORD HUTTON OF FURNESS

140 Schedule 4, page 39, line 19, leave out “10” and insert “15”

Member's explanatory statement

This amendment, together with amendment 139, would extend the period available to committees of the two Houses to discharge the sifting function provided for under the Bill, as recommended by the Secondary Legislation Scrutiny Committee in paragraph 59 of its 28th Report “Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill”.

LORD HOPE OF CRAIGHEAD

141 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.

LORD LISVANE
BARONESS LUDFORD
LORD BACH

141A★ Schedule 4, page 39, line 38, at end insert –

- “8A (1) This paragraph applies to regulations under section 15.
- (2) A Minister of the Crown may not make a statutory instrument containing regulations to which this paragraph applies unless –
- (a) a document containing a proposal for those regulations has been laid before Parliament,
 - (b) the document has been referred to a Joint Committee of both Houses, and
 - (c) a period of at least 40 days has elapsed after that referral, not including any period during which Parliament is dissolved or prorogued, or either House is adjourned for more than four days.
- (3) Subject to sub-paragraph (4), the regulations must be made, or (as the case may be) laid before Parliament in draft, in the form in which they appeared in the document laid before Parliament under sub-paragraph (2).
- (4) If the Joint Committee referred to in subsection (2)(b), after considering any regulations laid under this paragraph, finds that –
- (a) the regulations represent a substantive change to the preceding retained EU law, or
 - (b) the Government has not carried out sufficient public consultation lasting at least six weeks before laying the draft before Parliament,
- a Minister of the Crown must arrange for the instrument to be debated on the floor of each House and voted on before the period in sub-paragraph (2)(c) elapses.
- (5) If any amendments to the form of the regulations are agreed by both Houses of Parliament, the regulations must be made, or (as the case may be) laid before Parliament in draft, in the form as so amended.
- (6) If one House agrees amendments to the form of the regulations under sub-paragraph (5) the Minister may not make the relevant statutory instrument until the other House has debated and voted on a motion to agree or disagree with those amendments.”

Member's explanatory statement

This amendment would refer regulations made under Clause 15 to a Joint Committee of both Houses for sifting. Where the Committee judged it appropriate, for example when regulations

represented a significant change from existing law, the Committee would be able to refer instruments to a process allowing Parliament a substantive say over their contents.

Clause 21

BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

142 Clause 21, page 23, line 18, at end insert—

“(4) The provisions of this Act have effect without prejudice to section 7A of the EU (Withdrawal) Act 2018.”

Member's explanatory statement

This amendment would ensure that the provisions of the current Bill are interpreted in conformity with section 7A of the EU (Withdrawal) Act 2018, which gives domestic effect to the UK EU Withdrawal Agreement.

Clause 22

LORD HOPE OF CRAIGHEAD

143 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.

LORD CALLANAN

144 Clause 22, page 23, line 40, leave out subsection (5)

Member's explanatory statement

This amendment removes an exception from the Clause 1 sunset. The exception is contained in new clause (Exceptions to sunset under section 1).

THE EARL OF LINDSAY
BARONESS CRAWLEY

145 Clause 22, page 24, line 8, at end insert –

“(d) anything referred to in the Digital Markets, Competition and Consumer Act 2023.”

Member's explanatory statement

This amendment ensures that the Retained EU Law Bill does not apply to any regulations relevant to the Government's forthcoming Digital Markets, Competition and Consumer Bill.

LORD KREBS
LORD ROOKER
BARONESS BOYCOTT

146 Clause 22, page 24, line 8, at end insert –

“(d) an instrument, or provision of an instrument, where the instrument or provision of the instrument is wholly or partly made under, or with reference to, powers contained within the Food Safety Act 1990.”

Member's explanatory statement

This amendment ensures that any changes to regulations arising from the REUL Bill do not undermine the provisions of the Food Safety Act 1990.

Clause 23

BARONESS RITCHIE OF DOWNPATRICK

147 Clause 23, page 24, line 14, leave out “and Northern Ireland”

Retained EU Law (Revocation and Reform) Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

24 February 2023

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