

Retained EU Law (Revocation and Reform) Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 1

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

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

“but this provision does not apply to an instrument, or a provision of an instrument, that a relevant national authority has decided not to restate, replace or reproduce before the end of 2023 unless a statement to that effect has been made before the end of October 2023 by the responsible Minister to, as the case may be, each House of Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.

- (1A) If both Houses of Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, as the case may be, resolve that an instrument, or a provision of an instrument, mentioned in the statement referred to in subsection (1) be retained, it is not to be revoked under that subsection at the end of 2023.”

Member's explanatory statement

The purpose of this amendment is to enable Parliament and the devolved legislatures, and not the Executive, to have the final decision as to whether or not legislation that is not to be restated, replaced or reproduced by a relevant national authority should be revoked at the end of 2023.

After Clause 4

BARONESS JOLLY
BARONESS FINLAY OF LLANDAFF
LORD COLLINS OF HIGHBURY

After Clause 4, 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 8

LORD HOPE OF CRAIGHEAD

Clause 8, page 6, leave out lines 27 and 28

Member's explanatory statement

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

LORD HOPE OF CRAIGHEAD

Clause 8, page 6, line 36, leave out “or influenced”

Member's explanatory statement

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

LORD HOPE OF CRAIGHEAD

Clause 8, page 6, line 37, leave out “or would depart”

Member's explanatory statement

The words which this amendment seeks to remove could undermine legal certainty because they would appear to require the court to make a prediction which, in the given case, it may not be able to make.

LORD HOPE OF CRAIGHEAD

Clause 8, page 6, leave out lines 38 and 39

Member's explanatory statement

This amendment would remove paragraph (b), which could undermine legal certainty and risk bringing the judiciary into the political arena.

LORD HOPE OF CRAIGHEAD

Clause 8, page 7, line 39, 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

Clause 8, page 7, line 42, 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

Clause 8, page 8, line 3, 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

Clause 8, page 8, line 5, 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 8, page 7, line 42.

LORD HOPE OF CRAIGHEAD

Clause 8, page 9, line 6, 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 so that the section is not restricted to points of law which relate to the meaning and effect of Scotland legislation.

LORD HOPE OF CRAIGHEAD

Clause 8, page 9, line 7, 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 so that the power may be exercised in relation to points of law which concern the retained functions of the Lord Advocate.

LORD HOPE OF CRAIGHEAD

Clause 8, page 11, line 9, leave out “, if the argument 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 so that the section is not restricted to points of law which relate to the meaning and effect of Scotland legislation.

LORD HOPE OF CRAIGHEAD

Clause 8, page 11, line 18, leave out “relevant Scotland legislation,”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Hope at page 9, line 6.

Clause 16

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

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

“(3A) The power of a relevant national authority to make regulations under subsections (1), (2) and (3) is subject to the provisions of Part 3 of Schedule 4.”

Member's explanatory statement

The purpose of this amendment is to enable Parliament and the devolved legislatures to overrule the Executive and express their own view as to the contents of regulations that are to be made under this section.

LORD FOX
BARONESS CHAPMAN OF DARLINGTON

Leave out Clause 16

Schedule 4

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Schedule 4, page 47, leave out lines 4 to 8

Member's explanatory statement

This amendment is linked to the amendment in the name of Lord Hope of Craighead at page 49, line 10, which provides that the power to make regulations under sections 13, 14 and 16 is to be exercised under a different procedure from that set out in paragraph 7 of the Schedule.

LORD HOPE OF CRAIGHEAD
LORD ANDERSON OF IPSWICH

Schedule 4, page 49, line 10, at end insert—

- “8A (1) A Minister of the Crown may not make a statutory instrument containing regulations under sections 13, 14 and 16 unless—
- (a) a document containing a proposal for those regulations has been laid before each House of 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.
- (2) If the Joint Committee, after considering any regulations laid under this paragraph, finds that—
- (a) the regulations represent a substantial change to the preceding retained EU law, or
 - (b) the Government have 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 (1)(c) elapses.
- (3) If any amendments to the regulations, whether or not proposed by the Joint Committee, are agreed by both Houses of Parliament the regulations must be made in the form so amended.
- (4) If one House agrees amendments to the regulations under sub-paragraph (3) 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 provides for instruments made under clauses 13, 14 and 16 to be referred to a Joint Committee of both Houses for sifting so that, in the case of those which represent a significant change from the preceding retained EU law, Parliament will be enabled to differ from the Executive and express its own view as to their contents.

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