

RETAINED EU LAW (REVOCATION AND REFORM) BILL AMENDMENT TO BE MOVED ON REPORT

Clause 1, page 1, line 4

leave out “the end of 2023” and insert
“11:59 pm on 31 December 2028”

Effect

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

Reason

Subsection (1) provides for the revocation of all (a) EU-derived subordinate legislation and (b) retained direct EU legislation (RDEUL) at the end of 2023.

We are seriously concerned that the proposed statutory deadline of the “end of 2023” does not appear to allow sufficient time to enable the review of REUL to be completed properly after due consultation with the devolved administrations and relevant stakeholders including UK Parliamentary and Devolved Legislature Committees¹.

The additional time should be used for a more thoughtful approach to amending or repealing REUL. The choice of date should be made on the application of good legislative practice including consideration and analysis of the legislation involved and consultation with those who will be affected by the variation or revocation proposed by the regulations in question. This later date will allow for that process to be completed.

Furthermore, the reference to the “end of 2023” in subsection (1) is vague. We suggest that this reference should be defined with greater precision in clause 1(1) as “11.59 p.m. on 31 December 2028” following the precedent of the definition of “IP completion day” found in section 39(1) the European Union (Withdrawal Agreement) Act 2020.

Baroness McIntosh of Pickering introduced the amendments :

“I speak in support of Amendments 27 and 28. ...I prefer the amendment drafted by the Law Society of Scotland. I am delighted to have the support of the noble and learned Lord, Lord Hope of Craighead, as well in that regard. The amendments probe the Government on providing clarity about and extending the date on which the sunset provisions come into effect. As we now know, Clause 1(1) provides for the revocation of all “EU-derived subordinate legislation” and “retained direct EU legislation” by the end of 2023, although that date is very vague. The Law Society of Scotland expresses its serious concern that the proposed statutory deadline of “the end of 2023” does not appear to allow sufficient time to enable the review of retained European Union law to be completed properly, after due consultation with the devolved Administrations and relevant stakeholders, including UK parliamentary and devolved legislature committees.

The additional time could also be used for a more thoughtful approach to amending or repealing retained European Union law. The choice of date should be made on the application of good legislative practice, including consideration and analysis of the

¹ See comments on parliamentary consultation contained in the European Scrutiny Committee report: [Retained EU Law: Where next? - European Scrutiny Committee \(parliament.uk\)](https://www.parliament.uk/european-scrutiny-committee/retained-eu-law-where-next/).

RETAINED EU LAW (REVOCATION AND REFORM) BILL AMENDMENT TO BE MOVED ON REPORT

legislation involved, and consultation with those who will be affected by the variation or revocation proposed by the regulations in question. The later date that I set out in Amendment 27 will allow for that process to be completed.

Furthermore, the reference to “the end of 2023” in Clause 1(1), as referred to above, is vague. I therefore suggest that this reference should be defined with greater precision in as

“11:59 pm on 31 December 2028”

following the precedent of the definition of IP completion day found in Section 39(1) of the European Union (Withdrawal Agreement) Act 2020. I hope that, in summing up, my noble friend will approve both the specific reference to the time and date, and the extension of five years.” Retained EU Law (Revocation and Reform) Bill - Hansard - UK Parliament col 218.

Lord Callanan replied:

“ Amendments 27 and 28 are proposals to push back the sunset date to 2028. Again, we do not think that these amendments are appropriate...The principle of it is agreed, but we disagree on whether 2023 will work. I submit that it will. I understand that many noble Lords are concerned about the timelines in the Bill, and that this amendment seeks to push back what is wrongly perceived as a “cliff edge” date. Firstly, the 2023 sunset date was chosen because it is the quickest and most efficient way to enact retained EU law reform. It will allow us to swiftly remove retained EU laws that are no longer appropriate and are not in the best interests of UK businesses and consumers.

Secondly, I reassure the House that this is not a new programme. Work is well under way in each department and has been for over a year. Departments are continuing to draw up plans for every piece of retained EU law in scope of the sunset. Noble Lords heard earlier about Defra’s plans, and departments will provide further detail on their own particular plans in due course. Of course, the Department for Business and Trade will continue working closely with other government departments and the devolved Governments to ensure that all appropriate actions are taken well ahead of the sunset date.” Retained EU Law (Revocation and Reform) Bill - Hansard - UK Parliament col 233.

Our Comment

Lord Callanan does not set out a timetable or project plan detailing which Government departments are involved in the exercise, what Retained EU Law is involved per each UK Government department and devolved administration, what consultation will be undertaken by each department and administration and how many instruments will need to be passed by a. the UK Parliament, b. the Scottish Parliament c. the Senedd Cymru and d. the Northern Ireland Assembly (or the UK Parliament in relation to Northern Ireland). The Society believes that more transparency about these issues would be beneficial to those businesses and individuals affected by the sunset of retained EU law and those who advise them.

RETAINED EU LAW (REVOCATION AND REFORM) BILL AMENDMENT TO BE MOVED ON REPORT

Clause 2, page 2, line 5

at end insert— “(ba) any instrument or provision of an instrument or anything having effect under the instrument or provision which is identified after the end of 2023 (but had not been so identified before then) as— (i) EU-derived subordinate legislation; (ii) retained direct EU legislation;”

Effect

This amendment adds another category of Retained EU law which may be excepted from the subset provisions in clause 1.

Reason

This amendment ensures that any Retained EU Law which is not identified as such until after the sunset date is excepted from the sunset provisions in clause 1.

The review of REUL was announced by Lord Frost: UK Government - Retained EU Law Dashboard | Tableau Public. as paragraph 13 of the Explanatory Notes (“EN”) states that: “now the Government is in a position to ensure that REUL can be revoked, replaced, restated, updated and removed or amended to remove burdens.”

The Bill intends to further facilitate the review and provides that it should be carried out by the end of 2023. However, given the fact that EN paragraph 16 [2800](#) ([parliament.uk](#)) states that there are over 3,200 pieces of REUL (an increase from the 2,400 mentioned in the EN presented to the House of Commons [Retained EU Law \(Revocation and Reform\)](#) ([parliament.uk](#))) identified in the EU Law Dashboard, the Government should confirm whether the latest Explanatory Note is correct or whether they expect the number to rise again. Does the figure include the 1400 pieces reported by the Financial Times *UK plan to scrap all EU laws suffers a new setback*, on 7 November 2022, or those referred to in the report by the Food Standards Agency that:

“The FSA has identified 113 individual substantive pieces of REUL covering food and feed safety and standards in England and at least a further 39 pieces of REUL that are specific to our remit in Wales on matters to do with food composition and labelling. In addition, individual retained legislative authorisations, which allow animal feed products (c.500 pieces) and GM products (c.200 pieces) to be sold legally in the UK, are also technically individual pieces of REUL. So, in total, the FSA advises ministers on over 800 pieces of REUL that are subject to review under this Bill. 3 2.5 EU rules for food and feed will continue to be directly applicable in Northern Ireland under current NI Protocol terms, so food and feed law in Northern Ireland will not be affected in the same way by the Bill. We are undertaking analysis to understand the implications of the Bill on any REUL that exists in Northern Ireland” see: [Retained EU Law \(Revocation and Reform\) Bill 2022 | Food Standards Agency](#). It is likely that there will be more pieces of REUL which will be affected by this Bill. The Dashboard also does not cover all the REUL made by the devolved administrations [UK Government -](#)

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
AMENDMENT TO BE MOVED ON REPORT**

[Retained EU Law Dashboard | Tableau Public](#). We are seriously concerned that the proposed statutory deadline of the “end of 2023” does not appear to allow sufficient time to enable the review of REUL to be completed properly after due consultation with the devolved administrations and relevant stakeholders including UK Parliamentary and Devolved Legislature Committees.

This amendment will ensure that REUL which is identified after the sunset date will benefit from the exceptions from the sunset. The sunset should only apply to law which is acknowledged at the date of the sunset as falling within the categories of REUL under clause 1(1). The sunset should not apply to law not so acknowledged.

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
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Clause 13, page 17, line 3

leave out “23 June 2026” and insert
“11:59 pm on 31 December 2028”

Effect

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

Reason

The deadline within which a restatement retained secondary EU law may be made is currently 23 June 2026. The preparation of any restatement could be a considerable undertaking. At the time of writing there are barely three years in which the Government or any devolved administration are able to consult, analyse the results of such a consultation, prepare legislation and for Parliament or the devolved legislatures to consider and pass the legislation. The deadline needs to be extended to allow sufficient time for such an exercise to be completed. This amendment provides some additional time to enable a proper legislative approach to restatement to be undertaken.

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
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Clause 14, page 17, line 39

leave out “23 June 2026 and
insert 11:59 pm on December
2028”

Effect

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.

Reason

The deadline within which a restatement of assimilated law or reproduction of sunsetted retained EU rights, powers, liabilities may be made is currently 23 June 2026. The preparation of any restatement or reproduction could be a considerable undertaking. At the time of writing there are barely three years in which the Government or any devolved administration are able to consult, analyse the results of such a consultation, prepare legislation and for Parliament or the devolved legislatures to consider and pass the legislation. The deadline needs to be extended to allow sufficient time for such an exercise to be completed. This amendment provides some additional time to enable a proper legislative approach to restatement to be undertaken.

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
AMENDMENT TO BE MOVED ON REPORT**

Clause 16, page 20, line 6

leave out “23 June 2026” and insert
“11:59 pm on 31 December 2028”

Effect

This amendment extends the statutory deadline within which the powers to revoke, replace secondary retained EU law or make alternative provision may be exercised.

Reason

The deadline within which powers under clause 16 to revoke, replace or make alternative provision secondary retained EU law or make alternative provision for such a law may be exercised is currently 23 June 2026. The preparation of any revocation, replacement or alternative provision could be a considerable undertaking. At the time of writing there are barely three and a half years in which the Government or any devolved administration are able to consult, analyse the results of such a consultation, prepare legislation and for Parliament or the devolved legislatures to consider and pass the legislation. The deadline needs to be extended to allow sufficient time for such an exercise to be completed. This amendment provides additional time and a more appropriate legislative approach to setting the deadline.

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
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Clause 16, page 20, line 22

leave out “the end of 2023” and insert
“11:59 pm on 31 December 2028.”

Reason

Consequential amendment.

**RETAINED EU LAW (REVOCATION AND REFORM) BILL
AMENDMENT TO BE MOVED ON REPORT**

Clause 16, page 20, line 24

leave out “the end of 2023” and insert
“11:59 pm on 31 December 2028.”

Reason

Consequential amendment