

LINK Parliamentary Briefing:

Retained EU Law Bill

November 2022



Scottish
Environment
LINK

Retained EU Law Bill

Scottish Environment LINK opposes the Retained EU Law Bill and is deeply concerned over the potential impact in devolved areas. The Bill is deregulatory by design and poses significant risks to our natural environment. In addition, the Bill will unnecessarily set a looming deadline to protect existing laws, which risks existing legislation falling out of use should the Scottish Government fail to identify and act upon all relevant legislation in time.

The Retained EU Law Bill represents the single biggest potential modification of environmental law in the UK in recent history. It puts at risk hundreds of laws that are crucial to conserving and restoring the natural environment, as well as to protecting public health and creating a sustainable economy. We are also concerned at the timescales in the Bill, as there is just over one year until the first sunset of retained EU law, which will amount to hundreds of environmental regulations.

We say “hundreds” because it is impossible to be more precise. REUL encompasses legislation made over the course of decades. The Cabinet Office’s attempt to identify REUL has not been comprehensive, and as recently as early November it was admitted that 1400 relevant pieces of legislation had been absent from the official dashboard.

At least 570 pieces of Retained EU Law (REUL) relating to the environment have been identified by the Cabinet Office, but a complicating factor is that it is unclear how many of these laws have devolved implications. This is particularly significant because the Bill as drafted creates a much harsher cliff-edge in devolved areas than in reserved.

The Bill contains a sunset provision that will see any piece of REUL automatically be revoked on 31 December 2023 unless action is taken to retain, replace or amend the legislation. UK Ministers will have the power to set a later sunset of 2026. However, as currently drafted this power is not available to devolved administrations. There is a significant danger that legislation is not identified in time and that environmental protections will fall off the statute book by accident, rather than design.

The process of identifying all relevant legislation is therefore of paramount importance. However, experience shows that this will be complex and time consuming. REUL is a significantly bigger challenge than the comparatively modest EU Exist Statutory Instrument programme, which itself required significant civil service resource within DEFRA to implement.

LINK is therefore extremely worried about the Bill’s impact on civil service capacity at a time when a number of crucial pieces of environmental legislation are being taken forward by the Scottish Government.

In addition, the UK Habitats Regulations – our most important wildlife protections – apply in Scotland under some circumstances. Revoking or weakening these protections could have negative consequences for Scotland’s wildlife and wild places.

About

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

LINK Parliamentary Briefing:

Retained EU Law Bill

November 2022



Scottish
Environment
LINK

LINK is a Scottish Charity (SC000296) and a Scottish Company Limited by guarantee (SC250899), core funded by Membership Subscriptions and by grants from NatureScot, Scottish Government and Charitable Trusts.
Registered Headquarters: 5 Atholl Place, Perth, PH1 5NE
Advocacy Office: Dolphin House, 4 Hunter Square, Edinburgh, EH1 1QW