



Department for Business & Trade

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Edward Mountain MSP
Convenor, Net Zero, Energy and Transport Committee
The Scottish Parliament
Edinburgh
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Dear Edward,

Thank you for your letter of 15 February regarding the Retained EU Law Bill. I apologise for the delay in response.

Your letter expressed concerns around the potential impact of the Bill on the Net Zero, Energy and Transport Committee and the important programme of work this Committee runs. I would like to take this opportunity to outline the UK Government's position. Firstly, I would like to make it clear that each UK Government department is responsible for its Retained EU Law (REUL). For example, the Department for Transport and Department for Energy Security and Net Zero are the lead UK Government departments for REUL related to this Committee.

REUL Bill

The Bill is an enabling Act. It will not alter the devolution settlements or restrict the competence of either the devolved legislatures or the devolved government. The powers within the Bill will enable UK and devolved governments to more easily amend, revoke and replace outdated Retained EU Law (REUL) to ensure our regulations are tailored to and beneficial for all parts of the UK.

The majority of the powers, including the preservation power, within the Bill are conferred concurrently on the devolved governments. This will enable Scotland to make active decisions regarding REUL within its devolved competence, for the benefit of citizens and business in Scotland. The preservation power, in particular, will enable devolved Ministers to specify which pieces of REUL they wish to preserve beyond the sunset date within their areas of devolved competence to ensure that we can easily amend, remove and replace unsuitable retained EU law.

Despite our close work with the Scottish Government, following debate on 23 February, the Scottish Parliament decided to withhold legislative consent for the Bill. We are disappointed with this outcome, but we will continue to work with Scottish Government colleagues at ministerial and official levels. This Bill is vital for the whole of the UK to be able to fully take advantage of the benefits of Brexit.

Sunseting

As you will be aware, the sunset will repeal REUL within scope ahead of the sunset date (31 December 2023). Each department and Secretary of State has already started the process of identifying REUL for potential reform ahead of the sunset. The Scottish Government and other devolved governments will also be responsible for identifying REUL within their respective areas of devolved competence ahead of the sunset date.

Officials in the Brexit Opportunities Unit (BOU) and appropriate departments are working closely to explore ways in which we can further support devolved government (DGs) counterparts with this exercise. We recognise that it will be important to work with the DGs to understand their plans for REUL reform and how best to work jointly on the use of concurrent powers.

Extension power

The extension power is conferred on a Minister of the Crown only. However, UK Ministers will work closely with DGs to extend the sunset date for REUL in areas of devolved competence, or, where this otherwise impacts the devolved authorities, where extension of the sunset is appropriate.

Policy officials are still developing the process for exercising the extension power and we remain committed to working collaboratively with devolved government counterparts as we develop this process in order to ensure that it runs smoothly and efficiently and the power works for all parts of the UK.

Parliamentary scrutiny

The purpose of this Bill is to ensure we have the right regulations in place which are the right fit for the whole of the UK. However, I want to assure you that we have taken the necessary steps to ensure that this Bill contains robust scrutiny mechanisms that will enable the appropriate scrutiny of any amendments or repeals of REUL made by the powers included in this Bill.

We recognise the significant role the UK Parliament has played in scrutinising instruments subject to sifting procedures previously and are committed to ensuring the appropriate scrutiny under the delegated powers in this Bill. The UK Government will ensure any significant REUL reforms will receive the appropriate level of scrutiny by the relevant legislatures and are subject to usual processes for consultation and impact assessment.

Furthermore, we are committed to ensuring that the provision within this Bill works for all parts of the UK. That is why, the UK Government consulted with the DGs on whether to include an equivalent sifting procedure for their respective Parliaments for the powers in the Bill. The Welsh Government requested that an equivalent procedure for the Senedd be included in the Bill. However, the Scottish Government were content for the Bill not to include a sifting procedure for the Scottish Parliament on the basis that similar provisions in European Union (Withdrawal) Act 2018 were not extended to Scotland.

I would like to reiterate that BOU officials have been working together with the Scottish Government and other DG counterparts to address any concerns and to ensure the Bill works for all parts of the UK. It is right that the people of Scotland as well as the rest of the UK should benefit from the ability to reform and amend REUL so that the opportunities of Brexit can be further seized. We will continue to work collaboratively with all DGs governments and are committed to supporting sustained engagement on this moving forward.

Thank you for taking the time to write.

Yours sincerely,

Nusrat Ghani MP

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