

The Retained EU Law (Revocation and Reform) Bill 2022

On the 31st January, to mark the two-year anniversary of getting Brexit done, the Government set out its plans to bring forward the Retained EU Law (Revocation and Reform) Bill.

Retained EU Law is a category of domestic law created at the end of the transition period and consists of EU-derived legislation that was preserved in our domestic legal framework by the European Union (Withdrawal) Act 2018.

Retained EU Law was never intended to sit on the statute book indefinitely. The time is now right to end the special status of retained EU Law in the UK statute book on 31st December 2023. The Bill will abolish this special status and will enable the Government, via Parliament to amend more easily, repeal and replace retained EU Law. The Bill will also include a sunset date by which all remaining retained EU Law will either be repealed, or assimilated into UK domestic law. The sunset may be extended for specified pieces of retained EU Law until 2026.

The retained EU Law (Revocation and Reform) Bill is part of the Government's commitment to put the UK statute book on a more sustainable footing. By ending the special status of retained EU Law, we will reclaim the sovereignty of Parliament, and restore primacy to Acts of Parliament.

Background

The Retained EU Law (Revocation and Reform) Bill is the culmination of a journey that began on 23rd June 2016 when more than 17 million citizens of the UK and Gibraltar voted for the UK to leave the European Union (EU).

Our approach to making the UK 'the best regulated economy in the world' is set out in the Benefits of Brexit document published in January 2022. This approach is supplemented by the reviews into the substance and status of retained EU law which commenced in September 2021. The Bill will provide the means for Government, via Parliament to update legislation in response to the outcome of the substance and status reviews.

From these reviews, also came the [retained EU law dashboard](#), which is a catalogue of over 2,400 pieces of retained EU law across 300 unique policy areas and 21 sectors of the economy. It was published on the 22nd of June, as part of the Prime Minister's promise to empower the public to scrutinise EU-derived law that remains on the UK statute book. The dashboard enables the public to hold the government to account on retained EU law reform.

Content of the Bill

Now that the Government has mapped where EU-derived legislation sits on the

UK statute book, we are bringing forward this Bill in order to fully realise the opportunities of Brexit, and to support the unique culture of innovation in the UK.

To achieve this, the Bill will include the provisions outlined below.

Sunset of Retained EU Law

The Bill will sunset the majority of retained EU law so that it expires on 31st December 2023. All retained EU law contained in domestic secondary legislation and retained direct EU legislation will expire on this date, unless otherwise preserved. Any retained EU law that remains in force after the sunset date will be assimilated in the domestic statute book, by the removal of the special EU law features previously attached to it. This means that the principle of the supremacy of EU law, general principles of EU law, and directly effective EU rights will also end on 31st December 2023. There is no place for EU law concepts in our statute book.

Before that date, Government departments and the devolved administrations will determine which retained EU law can expire, and which needs to be preserved and incorporated into domestic law. They will also decide if retained EU law needs to be codified as it is preserved, in order to preserve policy effects the Government intends to keep.

The Bill includes an extension mechanism for the sunset of specified pieces of retained EU law until 2026. Should it be required, this will allow departments additional time where necessary to assess whether some retained EU law should be preserved.

Ending of Supremacy of retained EU law from UK law by 2023

Currently, retained direct EU legislation takes priority over domestic UK legislation passed prior to the end of the Transition Period when they are incompatible. The Bill will reverse this order of priority, to reinstate domestic law as the highest form of law on the UK statute book. Where it is necessary to preserve the current hierarchy between domestic and EU legislation in specific circumstances, the Bill provides a power to amend the new order of priority to retain particular legislative effects

Assimilated law

Following the removal of the special features of EU law from retained EU law on 31st December 2023, any retained EU law that is preserved will become “assimilated law” to reflect that EU interpretive features no longer apply.

Facilitating Departures from Retained EU Case Law

The Bill will provide domestic courts with greater discretion to depart from retained case law. It will also provide new court procedures for UK and Devolved Law Officers to refer or intervene in cases regarding retained case law.

Modification of Retained EU Legislation

The Bill will downgrade the status of retained direct EU legislation for the purposes of the amendment. The Bill will also modify powers in other statutes, to facilitate their use to amend retained direct EU legislation in the same way they can be used on domestic secondary legislation. This will enable retained direct EU legislation to be amended more easily, with an appropriate level of scrutiny.

Powers relating to Retained EU Law

The Bill will create powers to make secondary legislation so that retained EU law can be amended, repealed and replaced more easily. The Bill also takes powers to specify, after the sunset, the body of law that will continue to apply in place of retained EU law, and how it should be interpreted. Using these powers, the Government will ensure that only regulation that is fit for purpose, and suited for the UK will remain on the statute book.

Business Impact Target

Having left the EU, the UK has an opportunity to reform its regulatory regime. The UK government published its consultation response to the 'Reforming the Better Regulation Framework' and is in the process of implementing the wider reforms outlined.

As part of these reforms, the Bill repeals the Business Impact Target (BIT). The replacement of the BIT, when combined with the other wider reforms, will ensure that regulation is fit for the UK economy, business and households, as well as the future.

Other Government Priorities

The Government will continue to deliver policies to stimulate business growth, innovation and job creation.

This Bill will also not undermine any existing Government enquiries or commitments, for example regarding the Government's response to the Grenfell Tower tragedy. The Government remains committed to learning the lessons from the tragedy and delivering on building safety.

More generally, all required legislation relating to tax and retained EU law will be made via the Finance Bill (or subordinate tax legislation) which is usual and appropriate for tax provisions. The government will also introduce a bespoke legislative approach for retained EU law concerning VAT, excise, and customs duty in a future Finance Bill. This approach will revoke any remaining retained direct EU law that the government did not repeal in the Taxation (Cross-border) Trade Act 2018, and make clear that UK Acts of Parliament and subordinate legislation are supreme.

For further information, documents related to the Retained EU Law (Revocation and Reform) Bill can be found on the Parliament website.