

[Redacted]

Environment and Forestry, Future Environment Division
26 June 2023

Cabinet Secretary for Net Zero and Just Transition
Cabinet Secretary for Rural Affairs, Land Reform, and the Islands
Cabinet Secretary for Constitution, External Affairs and Culture
Minister for Green Skills, Circular Economy, and Biodiversity
Minister for Energy and the Environment

Retained EU (Revocation and Reform) Law Bill: Update

Purpose

1. To inform you of the regulations so far identified within Environment and Forestry Directorate's (EnFor) policy areas that are impacted by recent UK Government amendments to the Retained EU (Revocation and Reform) Law Bill.

Priority

2. **Routine**

Recommendation

3. We:
 - Invite you to note the volume of Retained EU Law (REUL) identified by DEFRA [Redacted]

[Redacted]

Context and Issues

4. As outlined in [Redacted] the UK Government's Retained EU Law (Revocation and Reform) Bill was introduced into the House of Commons in September 2022. The Bill primarily seeks to end the supremacy of EU law within the UK while giving powers to Ministers across the UK to repeal, replace or preserve instruments that either implement or are comprised of EU law that currently sit on the UK domestic statute book.
5. Following considerable resistance in the House of Lords to the UK Government's proposals, the UK Government tabled a number of amendments to the Bill accompanied by a Written Statement to the House of Commons on 10 May 2023. These amendments were agreed by the House on 15 May 2023. In summary, they modified the Bill in the following ways:
 - **The sunset:** The automatic sunset of REUL was removed. The Bill will no longer revoke all EU-derived subordinate legislation and EU retained direct

EU law unless proactively preserved. [Redacted]

- **Revocation Schedule:** Instead of an automatic sunset of REUL, the Bill instead provides that 587 specific instruments listed in a new Schedule are revoked, in a 'sunset list'. The date of the revocation remains "the end of 2023". The UKG have published the list, alongside their rationale for removing this REUL from the statute book
- **Preservation and extension powers:** The power to preserve REUL is replaced with a new power which relates to instruments listed in the new Schedule. Anything in the Schedule which is specified in regulations made by a relevant national authority will not be revoked (including the Scottish Ministers when exercising the power to the extent that instruments to be revoked are within devolved competence). This power cannot be exercised after 31 October 2023
- **Consequential amendment powers:** Scottish Ministers, together with other devolved governments, are conferred the consequential amendment powers sought by the Scottish Government under clauses 20 and 23 of the Bill. [Redacted]

Summary of Revocation List

[Redacted]

[Redacted]

However, the Bill still offers UK Ministers powers to revoke further REUL up until 2026 without requirement for consent from Devolved Ministers.

8. As part of this process, DEFRA have shared with the Devolved Governments the proposed UK Government revocation list. [Redacted]
[Redacted]

The following table provides a breakdown of the identified REUL. [Redacted]

Total number of REUL on Revocation Schedule	587
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[Redacted]	[Redacted]
[Redacted]	[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

13. Despite these changes, the Bill continues to represent a further undermining of devolution, by allowing UK Government Ministers to act in policy areas that are devolved, without the consent of Devolved Ministers, and the fact that Devolved Ministers are not afforded the same powers as Ministers of the Crown.

Next steps

[Redacted]

[Redacted]

[Redacted]

Bute House Agreement Implications

16. Green Ministers and MSPs have approved the Legislative Consent Mechanism position.

Financial and Legal Considerations

17. There are no financial considerations.

[Redacted]

Quality Assurance

19. This Submission has been approved by George Burgess, Director ARE

Conclusions and next Steps

20. Ministers are invited to;

- Note the volume of REUL identified by DEFRA [Redacted]
- Note that, [Redacted]

[Redacted]

Environment and Forestry, Future Environment Division

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for Net Zero, Energy and Transport	[R	[R	[R	[R

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Cabinet Secretary for Rural Affairs, Land Reform, and the Islands	[R	[R	[R	[R
Cabinet Secretary for Constitution, External Affairs and Culture	[R	[R	[R	[R
Minister for Green Skills, Circular Economy and Biodiversity	[R		[R	
Minister for Energy and the Environment	[R	[R	[R	[R

Officials Copy List
Lord Advocate
Legal Secretariat to the Lord Advocate
Solicitor to the Scottish Government
Director General Net Zero
Director of Environment and Forestry
Director of Agriculture and Rural Economy
Tim Ellis, Deputy Director, Future Environment Division, EnFor
Katriona Carmichael, Deputy Director Circular Economy, EnFor
Emma Harding, Deputy Director Environmental Quality and Resilience, EnFor
Alice Hall, Deputy Director EnFor Environmental Quality and Resilience, EnFor
Cate Turton, Deputy Director, Natural Resources, EnFor
Donald Carmichael, Deputy Director, Natural Resources, EnFor
Simon Fuller, Deputy Director, RESAS, EnFor
Alison Coull, SGLD
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[Redacted] SGLD
[Redacted] SGLD
[Redacted] CPAG
[Redacted] PLU
[Redacted] REUL Management Programme

Officials Copy List

[Redacted] REUL Management
Programme
[Redacted] Future Environment Division,
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[Redacted] EU Secretariat
[Redacted] EU Secretariat
[Redacted] Agriculture Policy Division,
ARE
[Redacted] Agriculture Policy
Division, ARE
[Redacted] Marine Scotland
[Redacted] EQR
[Redacted] EQR
[Redacted] EQR
Kate Higgins, Special Adviser
Harry Huyton, Special Adviser
Ewan Crawford, Special Adviser
Leanne Dobson, Special Adviser
Callum McCaig, Special Adviser

ANNEX A

Title	Extent of Revocation	[Redacted]	[Redacted]
<p>Commission Implementing Decision (EU) 2018/1522 of 11 October 2018 laying down a common format for national air pollution control programmes under Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants</p>	<p>The whole decision</p>	[Redacted]	[Redacted]
<p>National Emission Ceilings Regulations (S.I. 2018/129)</p>	<p>Regs 9 and 10</p>	[Redacted]	[Redacted]

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[Redacted]

[Redacted]

[Redacted]