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The fate of retained EU laws since Brexit



What is retained EU law?

Retained EU law is a concept created by the first major piece of Brexit related legislation, the European Union (Withdrawal) Act 2018.¹ This act took a ‘snapshot’ of EU law as it applied to the UK at the end of the Brexit transition period on 31 December 2020 and ensured it continued to apply in domestic law.

The Retained EU Law Bill

The Retained EU Law (Revocation and Reform) Bill, known as the REUL Bill, emerged as part of the ‘attack on nature’, in which ministers of the Liz Truss government proposed various ways to prioritise economic growth over nature protection and the environment.²

Originally called the Brexit Freedoms Bill, it was announced in the Queen’s speech in May 2022. It proposed to remove the supremacy of EU law and create new powers to amend, repeal or replace retained EU law without the need for primary legislation.³

In August 2022, as part of his campaign to become prime minister, Rishi Sunak pledged to shred remaining EU law “within 100 days”.⁴

In September 2022, the then business secretary, Jacob Rees-Mogg, introduced the REUL Bill to parliament to remove “needless bureaucracy”. It included a ‘sunset’ clause through which any piece of retained EU law would be revoked by default at the end of December 2023, unless ministers actively decided to save it by that point, an approach described by the Hansard Society as “fundamentally and irresponsibly flawed”.^{5,6}

The bill provoked outrage from many parliamentarians who saw it as a blatant power grab by the executive and part of a worrying direction of travel.⁷ Trade unions, businesses, civil society and consumer protection groups all voiced serious concerns, as did legal practitioners, think tanks and devolved administrations.^{8,9,10,11}

There were major concerns about the costs of implementing the bill, not least because of the size of the task of identifying and cataloguing all retained EU law by the arbitrary deadline set, prompting concerns about the amount of civil servant time that would be involved in documenting the laws, and the impact on the delivery of other priorities.

The independent Regulatory Policy Committee found the government impact assessment of the bill was not fit for purpose.¹²

However, the biggest concern about the bill was the prospect of sweeping deregulation and regression, legal uncertainty and the potential for unintended consequences arising from the bill's approach. This was especially relevant for environmental law because the Department for Environment, Food and Rural Affairs (Defra) had the largest share of retained EU law across Whitehall, with laws providing protections and standards for a vast array of matters, including wildlife protection, air and water quality, food safety, chemicals and pesticides pollution, animal welfare and the control of invasive species.¹³

Eventually, the government abandoned the 'sunset' clause. However, concerns remained about the wide nature of the powers still included in the bill, especially one which was termed the 'blank cheque' power. This would prevent ministers from adding so called regulatory 'burdens' when drawing up replacement laws, leading to fears the bill would be used for regressive purposes.¹⁴ To counter this, parliamentarians, environmental oversight bodies and environmental NGOs called for the addition of an environmental non-regression safeguard.^{15,16,17,18}

The government refused to add this to the bill but instead offered verbal commitments on how it would use the powers in the bill. Ministers assured parliamentarians that their approach would be to retain environmental laws by default, and that any changes would support the continued delivery of the UK's environmental and international commitments and take account of the environmental principles policy statement. The act was granted Royal Assent on 29 June 2023 and retained EU law is now known as assimilated law.^{19,20,21}

What has the government done to assimilated law?

The UK government maintains an assimilated law dashboard and publishes six monthly reports to parliament on the revocation and reform of assimilated law.^{22,23} Previously, these reports were sent to the former European Scrutiny Committee, with the Public Administration and Constitutional Affairs Committee expected to review future reports. The Scottish and Welsh governments also publish bi-annual reports on assimilated law.^{24,25}

To date, revocations of assimilated law have largely been to remove redundant pieces of law from the statute book.²⁶ However, there was one significant regression on air quality regulations, with no certainty over replacement arrangements.²⁷

The previous government attempted to weaken assimilated law on nutrient neutrality to allow pollution without mitigation in England's most sensitive nature sites. This would have been a major regression but was rejected by parliament.^{28,29}

The REUL Act's removal of directly effective rights and general principles of EU law is likely to have implications for environmental protection in the future, with no clarity on how these risks are being identified and addressed by government.³⁰

So far, the current government has shown little inclination to make extensive use of the powers in the act. It decided not to proceed with the commencement of section 6 of the act which sought to 'nudge' domestic courts to depart from EU case law more often. This suggests a more commonsense approach, although the powers remain available until 23 June 2026.³¹

In the UK government's six monthly report to parliament on assimilated law, published in January 2025, the commitment to "maintaining environmental protections" when undertaking regulatory reform was not included.³² This was concerning as the previous few months had seen some government ministers pitting growth priorities against environmental priorities.

Green Alliance queried this omission, and it was reinstated in the next report, published in July 2025.³³ Department for Business and Trade minister Justin Madders reaffirmed that upholding and maintaining environmental protections – alongside protecting consumers and businesses – are important regulatory aims and are key to delivering sustained economic growth.³⁴

The current government's greater willingness to align with EU rules where this would reduce divergence and regulatory friction within the UK's internal market is not well served by the powers available in the REUL Act, which are less 'alignment-friendly' because they prevent amendment of assimilated law in ways that increase the overall regulatory 'burden'.³⁵

However, the powers within the act to restrict the regulatory 'burden' may still prove tempting to some domestically, given the prime minister's pledge to reduce regulatory administrative costs by 25 per cent during this parliament, and the chancellor's action plan to overhaul the regulatory landscape.³⁶

Recommendations

1. **The government should continue to uphold environmental protections** in any use of its powers in the REUL Act until their expiry in June 2026.
2. **The government should include a replacement accountability system** in its forthcoming Clean Air Strategy. This was provided by Parts 9 and 10 of the National Emission Ceilings Regulations but was scrapped by the previous government.
3. **Defra should publish legislation before June 2026** to retain specific interpretive effects to ensure that important environmental rights and obligations deriving from EU conventions remain in UK law.

Endnotes

- ¹ *European Union (Withdrawal) Act 2018*
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- ³ Queen's Speech, May 2022, *Lobby Pack*
- ⁴ Rishi Sunak, 8 August 2022, *post on X*
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- ¹² Regulatory Policy Committee, 21 November 2022, *RPC opinion: Retained EU Law (Revocation & Reform) Bill*
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- ²¹ *House of Lords Hansard*, 26 June 2023
- ²² *Retained EU law and assimilated law dashboard*, 22 June 2022
- ²³ Retained EU Law (REUL) and Assimilated Law *Parliamentary Reports*, published every six months

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- ²⁴ Scottish Government, *bi-annual updates on assimilated law (retained EU law)*
- ²⁵ Welsh Government, 8 May 2025, '*Third bi-annual Welsh Government retained EU law (REUL) Act update: June 2024 to December 2024*'
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- ²⁹ *The Planner*, 14 September 2023, '*Lords reject government plans to scrap nutrient neutrality rules*'
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- ³¹ *ENDS Report*, 1 October 2024, '*Government freezes REUL Act measures 'nudging courts' to depart from EU case law*'
- ³² Department for Business and Trade (DBT), 24 June 2024, *Assimilated Law Parliamentary Report June 2024 – December 2024*
- ³³ DBT, 17 July 2025, '*Assimilated Law Parliamentary Report December 2024 – June 2025*'
- ³⁴ DBT minister Justin Madders, 17 July 2025, *letter to Green Alliance*
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This unit, run by Green Alliance, is a unique hub, offering expert knowledge sharing and detailed analysis of legislative and policy changes relevant to the environment. It monitors and influences environmental legislation, regulation and governance and provides detailed advice and responses to parliamentarians, government officials and the environment sector.

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