

SENSIBLE NEW APPROACH BY UK GOVERNMENT TO RETAINED EU LAW WILL BE WELCOMED BY BUSINESS

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Legal Briefings - By **Paul Butcher and Dorothy Livingston**

More than 2,500 Brussels-derived regulations are set to remain on the statute book beyond the end of this year

Kemi Badenoch, the Minister responsible for retained EU law, yesterday announced a change of plan on the abolition of retained EU law and its replacement by purely domestic law, available [here](#) (see also a related announcement [here](#)). This is reflected in proposed Government [amendments](#) to be made during the Report Stage of the Retained EU Law (Revocation and Reform) Bill in the House of Lords next week.

Instead of abolishing all retained EU law not specifically saved (and committing to get rid of even that body of law by end 2026) some 600 pieces of retained EU law set out in the proposed amendments will be specifically repealed and the rest will, under other provisions of the Bill become "assimilated law" and be subject to changes in their status and interpretation designed to ensure the supremacy of domestic law throughout the United Kingdom. In addition, the rights and obligations etc preserved by section 4 of the European Union (Withdrawal) Act 2018 will be abolished at the end of 2023.

Much of the retained EU law to be repealed is of no relevance to the UK once it had left the EU: for example provisions that could only be applicable to countries that are Member States of the EU or which relate to geographical areas within the continuing EU. Much of this could have been repealed under existing legislation, but has obviously come to light as a result of the thorough review in Government departments carried out for the purposes of the Bill.

A great deal of legislation related to the Common Agricultural Policy of the EU and to trade rules applicable to EU countries is also abolished, both relating to matters where the UK has, or is advanced in, setting its own policies. These repeals are unlikely to contain many surprises.

Among the 600, there are one or two areas, notably environmental legislation and employment legislation, where at first sight the proposed repeals look as if they could be of some significance, though this will require study to assess the impact.

On employment, Kemi Badenoch in an [article in The Telegraph](#) also indicates the Government's intention to make additional changes in the field of employment law, designed to streamline and simplify process, rather than change basic rights of workers.

It is these areas that seem likely to attract the most attention as the Bill completes its legislative passage. Many objections to the Bill, based on the lack of Parliamentary scrutiny of replacement legislation, seem likely to fall away. If there are specific concerns with proposed repeals, the Government amendments propose a provision which allows the Government to save all or parts of any legislation listed in the Bill from repeal at end 2023, should there be a case for retention.

What is clear is that every Government department is now fully aware of the retained EU law in their field of responsibility and is charged with domesticating that law. This can, however, now proceed with a more sensible timetable and the risk of creating "no law" gaps in important areas of law applicable in the UK has been removed. In particular, it is now clear that important measures, such as the Rome I and II Regulations on choice of law and the eIDAS Regulation dealing with electronic signatures are no longer at risk of arbitrary repeal without careful consideration of their replacement.

Financial Services Legislation will continue to be dealt with under the process for domestication set out in the [Financial Services and Markets Bill](#) currently also before Parliament. This already provides a process for replacement which would avoid any inadvertent gaps appearing in the law or the regulatory regime. Procurement law reform is also subject to a specific legislative initiative.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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