

Press Release

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Retained EU Law Bill jeopardises UK legal certainty

The Retained EU Law (Revocation and Reform) Bill could have a devastating impact on legal certainty in the UK, the Law Society of England and Wales said today as the bill reaches committee stage.

“The Retained EU Law Bill would allow ministers to overhaul laws in the UK without appropriate parliamentary scrutiny or public oversight. This raises uncomfortable questions for parliamentary sovereignty, legal certainty, and the rule of law,” said Law Society President Lubna Shuja.

“A so-called ‘sunset clause’ in the bill could see swathes of retained EU laws simply expire at the end of 2023. Employment rights, consumer, and environmental protections are among areas at risk. Only laws ministers actively pick out for rescue would be saved.

“Many basic protections for workers could disappear unless the government makes a proactive decision to keep EU-derived employment law.

“Workers would no longer be able to take paid annual leave, challenge an employer over equal pay, have pregnancy protections, take rest breaks or have family-friendly policies such as maternity, paternity and parental leave.

“Significant regulatory divergence with the EU may make trade with the bloc more difficult for UK businesses.

“We urge the government to ensure established employment rights and other important areas of law are retained, so the British public can have some certainty in this period of economic uncertainty.”

“The speed at which the government expects to be able to review the many thousands of retained EU laws which are woven into the UK’s legal landscape is a recipe for disaster and bad law-making,” Lubna Shuja added.

“If the bill passes in its present form, businesses cannot have any certainty about the legal and regulatory landscape beyond 2023. This would have a chilling effect on investment decisions, damage the UK’s standing as an international business hub and the global reputation of English law for certainty and predictability.

“The Law Society therefore calls on the government to remove the arbitrary and unrealistic 2023 deadline in the sunset clause, to allow for a measured and thorough review of affected laws.”

Commenting on proposals in the bill to allow more UK courts to depart from retained EU

case law, Lubna Shuja said: "Today in the UK, only the Supreme Court can deviate from EU law. Giving more courts the ability to deviate from EU law would be a major shift in the administration of justice. Different UK courts might then come to different, conflicting decisions.

"The Law Society believes the power to depart from retained case law should not be extended beyond the Supreme Court.

"The legal test the Supreme Court uses to depart from its own rulings is necessarily high, uncodified and flexible. It reinforces legal clarity and certainty.

"This clarity, coupled with the quality of the judges who apply the case law, has been seen as a strength when making arguments on the UK as the jurisdiction of choice."

Notes to editors

- Parliamentary Brief available upon request

About the Law Society

The Law Society is the independent professional body that works globally to support and represent solicitors, promoting the highest professional standards, the public interest and the rule of law.

Press office contact: [Harriet Beaumont](#) | 020 8049 3854