

Abolition of EU retained law – a threat to our safety and workers' rights

A Prospect briefing • January 2023



Abolition of EU retained law – a threat to our safety and workers’ rights

A Prospect briefing • January 2023

Contents

What does the Bill do?	3
Feasibility	3
Opposition to the Bill	3
Health & safety regulation	4
Workers’ rights	4
Progress of the Bill	5

Prospect
New Prospect House
8 Leake Street
London SE1 7NN
Tel: 0300 600 1878

prospect.org.uk

The [Retained EU Law \(Revocation and Reform\) Bill](#) is currently going through Parliament. The effect of the Bill will be to abolish all pieces of legislation derived from Europe unless there is a positive action to reinstate them before the end of 2023.

As a trade union representing many workers including in safety critical roles across the economy, Prospect believes the Bill is wholly unjust, unnecessary, and will cause mayhem. It poses a significant threat to a range of areas of law, including many of our existing rights at work and health and safety protections.

Prospect believes that the Bill would remove essential rights and protections. It is not possible to conduct a full review of all this legislation before the end of 2023, meaning rights and protections will be lost by default.

What does the Bill do?

Under the EU Withdrawal Act 2018, EU derived law was retained, although there were powers to review and remove legislation in the future.

This new Bill turns this on its head and instead automatically ends at least 2,400 existing laws at the end of 2023, unless ministers intervene to save individual laws or extend them to 2026. These laws cover workers' rights, safety regulation, environmental legislation, consumer protections, and more. Most of these rights have been embedded into the UK legal system for many decades.

The power to retain legislation would rest with ministers and devolved authorities, without allowing for proper scrutiny by Parliament or requiring public consultation to inform decisions.

There is also provision to remove the binding nature of earlier case law, which has clarified and extended rights.

Feasibility

The Government has created [a dashboard identifying current EU retained law](#), listed by department. However, it is believed there are further pieces of EU law that have not yet been identified, with reports suggesting the total could be as high as 3,800.¹

The sheer feasibility of reviewing and reaching a considered decision on so many complex items of legislation before the 2023 deadline has been questioned. This is particularly the case against a background of civil service workforce shortages, workload issues and threatened cuts to civil service numbers – cuts which have been justified in part by the ability to reverse recruitment which took place in preparation for Brexit.

Environmental groups have pointed out that Defra officials will have just one day to spend on each piece of legislation, including weekends and bank holidays.²

Opposition to the Bill

There is broad opposition to the Bill, with the TUC, Institute of Directors, the Chartered Institute of Personnel and Development (CIPD), [joining forces to oppose the Bill](#).

The Government's own Regulatory Policy Committee has said that the Impact Assessment on the effect of the Bill is '[not fit for purpose](#)'.

Prospect fully supports the [TUC's submission](#) to the Bill Committee.

¹ Parker, G. '[UK plan to scrap all EU laws suffers new setback](#)', *FT*, 8 November 2022.

² Foster, P. '[Fears raised over UK plans to review 'retained' EU law](#)' *FT*, 22 September 2022.

Health & safety regulation

Prospect has a unique position as it represents Regulatory Inspectors from the Health and Safety Executive (HSE) and Office for Nuclear Regulation (ONR). There are over 100 EU-derived regulations that our members use to keep people safe and healthy, which are at risk of falling due to this Bill.

Members across these organisations are concerned that the removal of any of these regulations will result in more deaths, injuries and illness across the industries they regulate, diminished protection for members of the public, and decreased ability to regulate the civil nuclear industry.

Examples include the potential loss of:

- Regulations targeting high-hazard offshore installations (oil rigs), chemical plants and explosives manufacturers, including those which prevent major incidents such as Piper Alpha or Bhopal.³
- Domestic gas regulations which provide for the Gas Safe Register and ensure rogue landlords and gas fitters can be held to account if they put members of the public at risk of death from carbon monoxide poisoning in their own homes.⁴
- Regulations that stop both workers and the public from being exposed to asbestos (past exposure to asbestos caused 2,544 UK mesothelioma deaths in 2020).⁵
- Regulations that ensure equipment and machinery at construction sites and factories is safe, including those preventing the biggest killers in UK workplaces.⁶
- Regulations that require Nuclear Licensees to have arrangements in place to effectively respond to a radiation emergency, both at the site of the emergency situation and off-site where members of the public might be affected.⁷
- Regulations that prevent workers from being exposed to levels of ionising radiation above specified limits, by requiring employers to keep exposure as low as reasonably practicable.⁸
- Regulations that require the environmental impact of decommissioning nuclear power stations and other nuclear reactors to be considered in detail before consent for the decommissioning project to commence can be granted.⁹

Workers' rights

Since 2016 there have been many commitments from leading Conservative politicians to protect and enhance workers' rights, but the Bill will do the complete opposite, leaving many rights that we rely on subject to abolition such as:

³ e.g., Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995, Offshore Installations (Offshore Safety Directive) (Safety Case etc) Regulations 2015, Explosives Regulations 2014, Control of Major Accident Hazards Regulations 2015 (COMAH)

⁴ Gas Safety (Installation and Use) Regulations 1998

⁵ Control of Asbestos Regulations 2012, data from [Health and safety statistics \(hse.gov.uk\)](https://www.hse.gov.uk/healthandsafetystatistics/)

⁶ e.g. Lifting Operations and Lifting Equipment Regulations 1998 (LOLER), Provision and Use of Work Equipment Regulations 1998 (PUWER), Construction (Design and Management) Regulations 2015 (CDM), Work at Height Regulations 2005, Workplace (Health, Safety and Welfare) Regulations 1992, data from [Statistics - Work-related fatal injuries in Great Britain \(hse.gov.uk\)](https://www.hse.gov.uk/statistics/work-related-fatal-injuries-in-great-britain/)

⁷ e.g. Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPPIR)

⁸ Ionising Radiations Regulations 2017 (IRR)

⁹ Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR)

- The right to paid holidays for all workers;¹⁰
- Limits to working time and the right to breaks;¹¹
- Protection when an employer changes through a transfer of undertaking (TUPE);¹²
- Rights for part-time, fixed-term, and agency workers;¹³
- Parental leave and family rights¹⁴, and;
- Some pregnancy and maternity rights and equal pay provisions¹⁵.

The Bill would create massive uncertainty for businesses and workers, confuse employers and could potentially increase litigation.

While the Government is not saying what rights would be retained, it is impossible to make a thorough assessment on each area. Any rights that ministers may select to keep could still be significantly watered down.

Progress of the Bill

The Bill has passed its Committee Stage and has now passed to Report Stage, an important part of its scrutiny before passing to the House of Lords.

Prospect believes the Bill should be scrapped entirely. If the Government considers there are unnecessary pieces of EU-derived law that should be removed, we urge them to use the existing Act, undertaking proper and subjecting any changes to full Parliamentary approval.

It is completely unacceptable that legal protections for workers' rights and public health and safety should be subject to such arbitrary treatment.

¹⁰ Working Time Regulations - www.legislation.gov.uk/ukxi/1998/1833/regulation/13/made

¹¹ Working Time Regulations - 1998 www.legislation.gov.uk/ukxi/1998/1833/part/II/made

¹² Transfer of Undertakings (Protection of Employment) Regulations - www.legislation.gov.uk/ukxi/2006/246/contents/made

¹³ Part Time Workers Regulations - www.legislation.gov.uk/ukxi/2000/1551/contents/made

Fixed Term Employees Regulations - www.legislation.gov.uk/ukxi/2002/2034/contents/made

Agency Workers Regulations - www.legislation.gov.uk/ukxi/2010/93/contents/made

¹⁴ Maternity & Parental Leave Regulations - www.legislation.gov.uk/ukxi/1999/3312/contents/made

¹⁵ Maternity & Parental Leave Regulations - www.legislation.gov.uk/ukxi/1999/3312/contents/made