



Retained EU Law (Revocation and Reform) Bill

CIEH Written Evidence to UK Trade and Business Commission

December 2022

About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

For more information visit www.cieh.org and follow CIEH on Twitter @The_CIEH

Any enquiries about this response should be directed to:

Ciaran Donaghy
Senior Policy and Public Affairs Executive
Chartered Institute of Environmental Health
Email: c.donaghy@cieh.org

Key Points:

- CIEH recognise that as the United Kingdom is no longer a member of the European Union, there is now an opportunity to review our current regulatory frameworks in order to establish if they are fit-for-purpose and suitably tailored to the needs of our country.
- We recognise that this represents a significant opportunity for CIEH to work closely with the government to help shape processes in such vital areas such as Food Hygiene and Safety, Occupational Health and Safety and Environmental Protection.
- However, CIEH remain concerned with the unnecessarily hasty 'sunsetting' process which aims to review, repeal, and replace 2,400 pieces of existing Retained EU law by December 2023.
- While CIEH acknowledge that there is the option to extend the deadline for sunsetting any Retained EU law that requires further review until June 2026, we feel this is still an unnecessarily hasty approach to reviewing our regulatory frameworks.
- CIEH welcome the written responses from government Ministers committing the UK to maintain and improve the high food safety standards we currently enjoy, and hope this is legislated for in the form of a UK Food and Feed Bill.
- We believe that the process of consulting with and engaging key stakeholders on the introduction of such a Bill should start immediately with the views of CIEH and our members urgently considered as a matter of priority.
- CIEH believe that as the UK are no longer in the EU there exists an opportunity for EHPs to take a greater role in inspecting products of animal origin at our ports.
- CIEH are concerned of the impact of the Retained EU Law Bill will have in terms of the movement of goods between Great Britain and Northern Ireland.
- CIEH are also concerned that without significantly greater resources for port inspections and inland local authorities, the movement of illegal goods into Northern Ireland could significantly increase.
- We are concerned that the Retained EU Law Bill puts a whole raft of EU-derived health and safety regulations at risk of sunsetting.
- The removal of these regulations would risk increasing accidents and ill health.

Food

According to the Food Standards Agency, there are over 150 pieces of Retained EU legislation¹, many of which are intertwined with UK legislation, on food, and legislation held by other government departments. Current Retained EU Law regulates some of the following areas of food safety:

- obligations to label food for allergens to consumers;
- over 100 pieces of legislation ensure the health and welfare of both humans and animals by providing a last line of defence against importing dangerous pests and pathogens;
- GMO food and feed being placed on the UK market without any food safety assessment taking place, nor any obligation to label such food for consumers;
- legal limits on chemical contaminants in food, with possible consequences to human health;
- restrictions on use of decontaminants on meat, such as the chlorine washes on chicken, and businesses' minimum hygiene standards more generally;
- protections in relation to the safety and compositional standards of baby foods. Without legal standards, there would be no enforcement leaving some of our most vulnerable groups, and the public more generally, without any substantive protection.

It is the CIEH's view that sunseting these laws on food safety will inevitably lead to a decline in UK food standards and will have a direct impact on public health. In response to several written parliamentary question submitted on behalf of the CIEH, the government has stated that, with regard to food standards that *"The Government is ensuring that food safety standards and consumer protection are maintained and improved. The powers set out in the Retained EU Law (Revocation and Reform) Bill will preserve and incorporate necessary retained European Union law ahead of the proposed expiration in 2023, including legislation safeguarding against the risk of chemical contaminants in food."*² Furthermore, the government have added that *"Maintaining the UK's high food standards also remains our priority. HM Government remains committed to promoting robust food standards nationally and internationally, to protect consumer interests, facilitate international trade, and ensure that consumers can have confidence in the food that they buy."*³

CIEH welcomes the commitment from the government that maintaining the UK's high food standards remains a priority, and that food safety standards and consumer protection will be maintained and improved. However, we are concerned that this Bill proposes to sunset a significant amount of Retained EU legislation which currently regulates food safety and standards without first having consulted on and produced a distinct Bill which would have assured key stakeholders and the wider public that these standards would indeed be maintained. We are also concerned with the timeframe being afforded for this process, with the deadline for sunseting all existing Retained EU Law being set at December 2023. Therefore, we would support calls for the UK Government to introduce a Food and Feed Bill as a matter of priority. We would urge the government to immediately begin consulting key stakeholders, including CIEH, on the introduction of such a Bill to ensure adequate time for this Bill to receive the required scrutiny and input from key stakeholders well in advance of the December 2023 deadline for sunseting existing Retained EU legislation in this area.

¹ [Chair's stakeholder update - Food safety must be carefully considered in Brexit Freedoms Bill | Food Standards Agency](#)

² [Written questions and answers - Written questions, answers and statements - UK Parliament](#)

³ [Written questions and answers - Written questions, answers and statements - UK Parliament](#)

CIEH recognise that the United Kingdom no longer being a member of the European Union affords us the opportunity to craft a new regulatory regime best tailored to the specific needs of our country. This is a unique opportunity for key stakeholders, including CIEH, to come around the table and embrace innovation which ensures that our food safety standards are robust and fit-for-purpose.

However, CIEH would caution against pursuing any path which results in significant departure from the EU's regulatory regime. Not only would this make close relations with the UK's most significant trading partner harder to achieve but would also exacerbate issues of moving goods between Great Britain and Northern Ireland. Northern Ireland remains within the EU's regulatory regime owing to the operation of the Northern Ireland Protocol, so any significant divergence in regulatory regimes would potentially add additional pressure on the already controversial issue of checks on goods moving between NI-GB.

There also remains a lack of certainty regarding the government's thinking on the future of food imports and border controls with the anticipated publication of a new Target-Operating Model. The model will likely aim to remove the need for 100% documentary checks on food imports, potentially replacing this with a 'trusted trader' traffic-light rating scheme, with low-risk imports not requiring any checks, and high-risk products always being checked. There remains a lack of clarity on what exactly constitutes a 'medium' risk product, as well as the considerable risk that already overburdened inland EHPs will be expected to pick up any issues that may have been missed at the border. However, CIEH remains ready and willing to engage with the government with respect to the design and implementation of such a model and argue that EHPs can have a vital role to play in its operation. For example, as the UK is no longer part of the EU, this means that it is no longer mandatory for official veterinarians to carry out inspections on post-mortem products of animal origin. Such inspections can be carried out by EHPs and these reforms offer an opportunity for the UK Government to work closely with CIEH in enhancing the role of EHPs in this respect.

Health and Safety

EU-derived health and safety regulations support the Health and Safety at Work Act 1974⁴. They include the basic 'six pack' regulations. These cover the management of health and safety at work, manual handling operation, the use of display screen equipment, the maintenance and upkeep of premises, the provision and use of work equipment and the provision and use of personal protective equipment. EU-derived regulations also include regulations that cover specific areas of risk, for example asbestos, construction, and work at height.

The Bill puts all of the EU-derived regulations at risk of being sunsetted. The Health and Safety at Work Act would remain but, over the last thirty years, regulators and businesses alike have become accustomed to the standards set by these regulations. The Act sets out broad duties but is otherwise light on the detail of how compliance should be achieved. The regulations support the Act by laying out more specifically what compliance with the duties looks like.

CIEH members are concerned that without these regulations businesses would be 'stumbling around in the dark' as to how to ensure they are complying with their duties under the Act. There would be more variation in standards and securing improvements in businesses would be more difficult. There is also a concern that, given uncertainty about how to comply with the Act, businesses would find themselves more likely to be prosecuted for failing to protect their staff and the public.

With regard to enforcement, the regulations help to set a benchmark that supports proportionality and consistency. Many of them have accompanying Approved Codes of Practice which further the benchmark. These presumably could also be lost through the Bill alongside existing guidance

⁴ [Health and Safety at Work etc. Act 1974 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1974/16)

documents. Some guidance might be preserved but, since failure to comply with a defined standard such as a regulation is more likely to lead to enforcement than failure to comply with guidance, a reduction in formal enforcement is a foreseeable outcome of removal of the regulations.

Removal of the regulations could lead to a wide range of damaging consequences. Removal of the regulations that cover specific areas of risk, for example, might mean that asbestos removal would no longer require a licensed contractor, that construction work would no longer need to fulfil requirements around planning, design, coordination, and use of competent people and that work at height requirements around access equipment and fall prevention would not be specified.

CIEH therefore believes that sunseting of the regulations would be a backwards step. They should be viewed not as a burden on businesses but as guiding businesses on how to protect their staff and others from injury or ill health and ensure they have a productive and happy workforce. To think of them as burdensome is short sighted.

We recognise the need for planned and thorough reviews of regulations with a proper process of consultation. We do not believe, however, that this Bill provides suitable mechanisms for conducting such reviews.

The UK has a proud record on health and safety. The removal of EU-derived health and safety regulations would risk increasing accidents and ill health and thereby jeopardise that record.

Regulatory Divergence:

CIEH recognises that as the UK is no longer a member of the European Union, this affords us the opportunity to tailor our regulatory regimes to best suit the needs of the country. We are keen to work with both the government and with regulatory bodies in environmental health to support efforts in producing these to ensure that we can either maintain or improve upon the very high standards of environmental health we currently enjoy in this country.

However, CIEH wish to highlight the fact that Northern Ireland, as a constituent part of the United Kingdom, remains within EU frameworks on several issues pertaining to environmental health. There exists a great deal of uncertainty as to the impact the Retained EU Law Bill will have with respect to its application in Northern Ireland, namely whether EU principles of supremacy cease to apply in Northern Ireland. There is also great uncertainty as to how the Retained EU Law Bill will interact with both the Northern Ireland Protocol and UK Internal Market Act. Northern Ireland businesses and producers are currently required to adhere to EU standards on goods. With respect to food safety and standards, should the United Kingdom choose to deregulate some of the existing standards currently regulating food products, this may have the consequence of preventing such food products from being allowed entry into Northern Ireland from Great Britain.

Northern Ireland's food supply chain is highly reliant on the movement of food products between GB-NI with a 2018 report finding that 680,000 tonnes of food was traded each way between NI and GB.⁵ Should the proposed reforms result in entirely incompatible regulatory regimes, exacerbated by the potential desire to attract future third-party free-trade agreements, then we may find ourselves in the situation where food products from GB may be refused entry to NI, placing the NI food supply chain under significant pressure.

The issue of certain products not being allowed entry into Northern Ireland from Great Britain does not relate solely to food products though. Northern Ireland is required to adhere to EU regulations with respect to consumer protection regulations, which are enforced by EHPs in Northern Ireland, unlike in Britain where it is a Trading Standards enforcement issue. Should the UK deregulate

⁵ [Food, Brexit and Northern Ireland: Critical Issues - Food Brexit Briefings - Food Research Collaboration](#)

standards of consumer products, this too would have an impact on the movement of consumer products between GB and NI as well. Since the introduction of the Northern Ireland Protocol divergence in Product Safety Regulation has already been evident – significantly in regard to cosmetic products. These challenges will intensify as divergence between EU and UK legislation and standards increase over time. EHPs involved in product safety will be required to have an in-depth knowledge and understanding of both regulatory regimes and different standards depending on the supply chain. Additional resource will be required for all market surveillance activities including consumer complaints to enable officers time to carry out relevant research. This will require significant time and resource to ensure adequate training is carried out, and that EHPs can carry out their duties effectively in this respect.

The impact this is likely to have on Northern Ireland port authorities as well as EHPs working within local authorities inland cannot be overstated. Significant pressure will be put on port inspections to ensure all goods and products arriving from GB adhere to EU regulatory standards, which will be a burdensome process if the UK deviates significantly from EU standards on both food products and consumer goods. There will also be greater pressure placed on EHPs to spot any issues arising from products that slip through any gaps in the system. This issue will be made worse without a significant increase in resources and funding for both port authorities and inland local authorities for inspection and enforcement. Without greater funding and resources, the risk of gaps in checks being exploited by those engaging in criminal and fraudulent behaviour rises significantly.

Finally, it is worth noting that many aspects of environmental health are devolved to the various regional parliaments and devolved assemblies. Greater divergence from already existing minimum standards which are derived from EU regulations could lead to considerable divergence in standards across the various jurisdictions of the United Kingdom. This could be particularly problematic in local authorities which border different jurisdictions.