

Retained EU Law (Revocation and Reform) Bill

Written evidence submitted by the Border Reform and
Research Group (BRRG) (REULB68)

[BRRG.ORG.UK](https://www.brrg.org.uk)

Focus range:

Food safety & standards, Imported food, biosecurity



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Author



EXECUTIVE SUMMARY

- The **deadline 31/12/2023** causes concerns due to civil service capacity. Legislative review of almost 4000 laws (2417 initially identified + 1400 additional laws, total number of laws uncertain. Civil service capacity issues already reported future cuts are planned ahead of key task). Extension would be beneficial.
- **Defining the starting point should consider use of following: Process, legislation and interactions mapping, multi-agency collaboration, interventions delivery** analysis (who does what, why and when- laws used and available to use), **A-Z scenarios testing, expert stakeholder scrutiny** (to ensure, that proposed system is sound and operable) Identify **the process** (gaps, contradictions and overlaps).
- **Update the REUL dashboard** and mapped results for wider stakeholder's input. Ensure all affected laws are mapped. Adjust interface for improved interactivity (copy form source) for ease of work.
- **Mapping done by expert teams** (as little staff changes as possible within these dedicated teams) open to contributions from wider cohort- as there is an interest of getting process right the first time. Expertise within the team to identify issue and impact assess consequences, remedy etc.
- **Retain existing processes** until new set of rules is ready and tested (case exercises?). Alternatively refrain from Bill implementation (completely or in complex areas prone to adverse impact).
- **Burden-** bill aims by default towards deregulation (future burden levels could not increase). Limits, levels and further requirements across food and feed legislation aim in general to protect the public and trade, enforce failure and facilitate remedial action, as well as keeping UK in alignment with EU as a trade partners.
- Science based profession protecting the health of population should not be bound by administrative restrictions such as **restriction on future burden** to businesses. Laws should be able to embrace the advancement of science, use evidence and legislate necessary steps to achieve better, targeted and effective preventive (and reactive) regulatory work.
- **Ministerial powers** allowing changes to legislation without parliament scrutiny should be reviewed. Powers implemented partially or wrongly (i.e., not considering the technicality and multi-agency involvement) could result in further damage to public health and economy (businesses, international trade, etc.).
- **Sufficient time** is needed for business and regulators **to adapt to new laws and regime**. (Guidance, training workshops, social media, mainstream media).
- **New border checks regime and inland enforcement legislation** need to be defined before existing regime is deactivated/broken. Pathogens, illnesses etc. do not consider administrative processes, borders, thresholds, deadlines, parliamentary recess etc. The outbreak, biosecurity incident etc. (unlike i.e., Fiscal decision) cannot be backdated, infections undone, loss of lives reversed → Changes to legislative framework and regimes need to be done with utmost caution, need to be evidence led and risk aware.
- **Further adverse Impact of UK EU exit** – full regime of checks is currently applied on UK exports entering EU. EU goods are reaching UK market unmonitored (which already undermines UK export). Further divergence from EU standards could for example trigger DG Sante audits, undermine confidence in UK standards etc.
- Future planning for new operational regimes should **consider staffing and workforce development** (training, qualifications). Appointments for these roles should not by default rely on the international job market and talent pool. **Qualifications and competency frameworks** planning have to be developed along with legislative changes, so regulatory functions can be delivered.
- **EU, NI, GB, 3rd country** – is a complicated relationship.



INTRODUCTION

Scope and Introduction

Authors

1. BRRG¹ is facilitated by CIEH². Group comprises mainly (but not exclusively) from colleagues qualified as Environmental Health Officers, Port Health Officers and Food safety specialists. Some BRRG members are also members of [Association of Port Health Authorities](#). The activity within the group **is not** remunerated and participants engage often in extend relevant to their expertise, will, and time availability, knowledge, ability and skillset. The aim is to meet approx. every 3 weeks, side line meetings might happen in interest of piece work progression and group goal accomplishment in timely manner. Group members are professionally qualified from national and international academic institutions.
2. Key concept written by Diana Tumova MSc. MCIEH CEnvH [in](#).

Focus

3. This report outlines in examples potential impact of the Bill on public health, food safety, standards, biosecurity and international trade (i.e., export restrictions following the outbreak) – illustrated on UK, EU and international case studies, official reports, media and published research.

Purpose

4. The purpose of this report is to highlight the interconnectivity of processes and multiagency collaboration embedded in current laws. New system of work should be reliably in place before the current legislation is revoked and operational links broken.

Impact

5. The potential impact of the Bill could make the UK in effect into country with open borders and paralysed enforcement.
6. Areas of potential adverse impact: Food safety, food standards (food fraud and crime), biosecurity, international trade, etc. (incurring costs as the consequence)

Aims and objectives

Aims

7. Demonstrate technicality of relevant the subject and need for accurate process mapping before the current system cease its function.
8. Demonstrate irreversibility of incidents by using the real-life reported incidents. Case studies, research papers, media, link to existing parliament, gov and official sources etc. were used to illustrate the variety of extend and seriousness of the impact.

Objectives

9. Set recommendations based on evidence, knowledge, observations and insights.

SOURCES OF EVIDENCE

Information used in this report

10. **Historic cases** (connected to real life scenarios) were used to illustrate impact of the bill (if implemented). These cases were dealt with as there is working functional system of collaboration and defined interventions for different situation. The symbol [▶](#) link to external resources. Further selection or relevant resources used to research the topic is appended to this report.

¹ BRRG - Border Reform & Research Group

² CIEH- Chartered institute of Environmental Health



11. **REUL Dashboard** ▶ was designed to give an outline of affected regulations linked to controlling department. There is not reliable list of affected laws published yet. Food and feed legislation falls mainly under DEFRA and DHSC. Interventions related to Food, feed and contact materials can be very complex involving multiple agencies.
12. Examples of **reports and databases** are presented to present resources of current issues, incidents and monitoring results.

Table 1: Examples of data sources. More resources are featured in Resources section.

Source name	Description	Open public access
ADIS	EC Animal disease information system	YES
RASFF	EC RASFF notifications	YES
RLD	FSA Risk likelihood dashboard -known and newly emerging hazards-dashboard	NO
EWS- Early warning system	Email distribution to regulatory services, local authorities, port health authorities Sources: (RASFF, RLD, other official sources)	NO
HorizonScan	HorizonScan monitors global food integrity issues, allowing you to plan and ensure consumer safety and protect brand identity. Public access, subscription based	YES
APHA	Animal and Plant health agency	YES
FSA	FSA Updates- (Content restrictions for non -gov users)	YES
Knowledge4policy	EC JRC Reports- food fraud, authenticity reports	YES
ECDC	European Centre for Disease Prevention and Control	YES
Campden BRI	Campden BRI Resources – membership company subscription access	NO

13. Well managed food supply chain is a key strategic part of working society. Product quality, safety and protective measures available to state are vital to maintain healthy productive population. Examples of incidents outlined in **Table 2** highlight, that incidents do happen, but processes and mechanisms are in place for the regulator to effectively intervene. Its critical, that changes to processes are done, only if superseding system meets all elements of required functionality.
14. The food safety is a science led profession and it is imperative, that any measures necessary can be legislated in wider interest of public protection. Scientific advancement enriched legislation by i.e., specific limits (i.e., Retained Commission Regulation (EC) No 2073/2005 - Microbiological criteria for foodstuffs). Legislators utilised scientific evidence for greater good. It's likely to assume that science will provide further insights and further legislated protection might be needed- **therefore legally binding changes to burden would not be safe, practical nor ethical.**

Table 2: Relevance of legislation to real life historic cases, potential impact of causing process breakage.

Area of non-compliance, Impact	Legislation and its relevance to real life situations. Multiagency collaboration	UK, EU, world -real case studies, research paper or other evidence
Food safety, food standards	Local government conducting food safety and food standards proactive and reactive work. (Env. health, Port Health Authorities, FSA, UKHSA, using available tools i.e.: NAFN ³)	Sweets HTC gummies, ▶ Jelly cones-choaking hazards ▶, ▶ Ingredients substitutions and inconstancy and use of terms lacking definition by business (or by their suppliers without acknowledgement -knowingly or not) resulting of deaths following the anaphylactic shocks. Food fraud monthly report highlight recent incidents. ▶ Frauds in fats and oils. ▶ Fraud in meat industry ▶ JRC October2022 Report
Food safety, food standards- new and emerging hazards	Newly emerging issues might become subject to new regulations or new requirements to serve its purpose of protection against damage or harm. Historically- new checks were introduced, check regimes changed etc following the science. Some issues are emerging, other are subject to future findings. <i>i.e., newly emerging concerns:</i> re microplastics in food chain, studies linking plastics to endocrine disruptors. Increasing awareness triggers further research- findings of which might determine future shape of i.e., maximum limits. Historic cases: USA – Thyrotoxicosis- reactive investigation, change of abattoir routines and CDC intervention. Incident triggered further research, but incidence is reportedly low. This case serves as an example of successful intervention led change to processes to protect public health.	▶ Microplastics in canned fish- investigations ▶ Endocrine disruptors – New EU criteria 2018 ▶ Thyrotoxicosis & the consumption of bovine thyroid tissue ▶ Thyrotoxicosis Dakota-Minnesota USA 1994-5. Corrective measures followed the incident.
Public health – reactive work.	Operable system with clearly defined remits is vital to deliver effective interventions.	Hepatitis A ▶ 2022 summer: frozen fruit – FSA product recall, ▶ FSN- EU operation Salmonella (Nestle) ▶ Kinder products 2022 recall Trichinosis - wild and domestic pigs affected. No checks = no knowledge Listeria ▶ UK sandwiches Listeria in Italy ▶ outbreak- sausages Listeria in Italy ▶ 90 sick, 3 dead Listeria in Denmark ▶ outbreak fishcakes Clostridium Botulinum EU ▶ RASFF & product recall
Imported food	Border controls are ruled mainly by EU law. Alignment with EU law Deviation from EU laws undermine UK export. Fragile GB-EU-NI trade relationship could suffer further adverse impact. New regime- (BOM, TOM) etc need to be defined before the legislation changes otherwise UK effectively opened flood gates (boarder) to illegal trade. NSF ▶ commented on fraud in supply CIEH refers to ▶ changes for UK ports ▶ Food safety vs politics	Large scale EUROPOL joint operations in past with UK participation intercepted large scale operations. EU goods have free undisrupted access to UK market. ▶ Poland- export suspect beef across EU ▶ Europol- 320 tonnes of dairy seized ▶ Europol- 15.000 tonnes of food and beverages seized ▶ Europol -1100 tonnes, 43 arrests Recent incidents: ▶ Dover ASF intervention result – illegal import of pork meat (maggots, no temperature control etc). Food safety and biosecurity risk, as previously highlighted ▶ Further information: ▶ EC-JRC report, Table 1, Resources and Bibliography

³ NAFN ▶ National Anti Fraud Network



Area of non-compliance, Impact	Legislation and its relevance to real life situations. Multiagency collaboration	UK, EU, world -real case studies, research paper or other evidence
	Written reports of illegal imports from EU are sparse. As EU freight not intercepted. Europol intervention report, JRC food fraud reports etc however show clearly that the issue of food crime and fraud is real and present.	
Biosecurity	Multiple agencies are involved during the food import and enforcement. EU set of rules proved itself internationally over decades → carrying existing EU checks systems might be beneficial (compared to no checks). Checks help to deter non-compliance and to collect data for future use. Lack of checks put UK biosecurity at risk- as apparent from historic incidents.	<p>African Swine Fever⁴</p> <ul style="list-style-type: none"> ▶ 5817 cases across EU since 1/1/2022 and increasing. Dover intervention result (2,5 tonnes of meat) ▶ (Government notified - May 2022). 2kg personal import limit- protective measure adequacy is questionable. <p>Foot and mouth disease</p> <ul style="list-style-type: none"> ▶ Devastating outbreak in UK 2001 ▶ BBC rewind- document reached cost several billions and had a debilitating impact on UK ▶ NAO detailed report- several billions cost. ▶ Stopping illegal imports of animal products into GB- guidance (2005), ADIS- Turkey 66 cases since 1/1/2022) <p>Avian influenza- UK in protective zone. Easy spread, impact on UK biosecurity and rural industries, high incidence in Europe.</p> <p>Anthrax ▶ historic outbreak in UK, current sporadic occurrence in EU (145 animal cases since 1/1/2022, Croatia 15 human cases 30/7/2022) ▶</p>
Divergence from EU legislation	Divergence from established EU law leading to potentially undermined confidence in UK products etc investments and operation. Scope of impacts noted during committee meetings and parliament debates: 25/10/2022 ▶ Select committee meetings: AM- session ▶ PM- session ▶	Further certification and auditing requirements creating even further adverse conditions for UK producers and exports. Inconsistent interpretation of new rules, need for further interventions, auditing, assurances etc. Additional cost widen gap between EU and UK producers.
Staffing, qualifications, training, competences (Food safety, standards and food security etc.)	Future regimes plan for the interventions need to coincide with plans for staffing, qualifications, competency frameworks and to identify gaps. Explore current legislation and utilise existing legal flexibilities- promoting –risk & competency based practical approach. -seeking A-Z training with rational use of existing resources (OV vs EH)	Outflow of OV to EU countries resulting in staffing capacity issues. ▶. Future potential incidents could be difficult to handle with no adequate number of OV or other trained personnel in same timeframe of suspended/non implemented border checks.

⁴ ADIS ▶ pp.1-2, EFSA-ASF- WOH ASF videos: ▶, ▶



CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. Magnitude of the task is too great for given timescale. Proposed cuts in civil and public sector, while conducting critical task of redefining legislation system is concerning. Bill implementation delivered in haste, under resourced with gaps in expert engagement could be damaging at national and international level.
2. Excessive powers granted to ministers with no need for parliament scrutiny represent a major risk of politic interests superseding the expertise technical aspects.
3. Unclear about reviving the laws which were “missed of the list” - as no complete mapped overview of all relevant affected laws has been published yet.
4. Task underestimated for its importance, extend, pressure on resources, demand for expertise and potential adverse impact of poor implementation.
5. New schemes and implementation policies (BOM, TOM, checks regime, Trusted Trader scheme, Ecosystem of trust) need to be defined prior the legislation is switched off/switched over.
6. Science based profession protecting health of population should not be bound by administrative restrictions. Historically- new regimes, checks techniques were introduced and legislated as the outcome of incident, or result of scientific advancement. Defining future burden levels deprive future legislation to serve its purpose of protecting people- as would not be able to legislate for factors not known at this time.

Recommendations

7. **Timescale extended** from 31/12/2023 and 31/12/2026 to i.e. 31/12/2025 and 31/12/2028 and amendments made.
8. **Dedicated project core teams**– allow team colleagues working on project to penetrate into technicality of the subject, develop rapport with key stakeholders and other teams, maintain accountability of progression. Engagement with professional public and wider stakeholder cohort due course (i.e. similar to TOM workshops). Promote interagency and interdepartmental communication (historically difficult due to ongoing staff changes and project reassignments). Scenarios testing A-Z problem flow- using real life and hypothetical issues.
9. **Process legislation in groups of laws (related to similar subjects). examine other policies and process continuity.** Classify laws with clear indication of their proposed future.
10. REUL dashboard- adjust the tool so fields can be copied and pasted to external software. This minor amendment would benefit many of those using the tool.
11. **Map legislation, processes affected by legislation, agencies in charge, A-Z scenarios testing. Make document accessible to public and welcome the feedback (will consultations identify further omitted laws?)**
12. **Laws numbers and names**– consider nomenclature options (ease for small businesses in mind- ease of transition)
13. **Engagement**- fairly timed robustly publicised invites for consultations and calls for evidence. Transparency and publication of **milestones achieved** and **steps ahead**– durations and timescales transparent and adhered to. Fair time allowance given to stakeholders to prepare and participate.
14. **Future burden should not be defined- while unaware of future needs or situations.** Legislating with integrity is based on evidence. Ongoing reduction in burden only leads to gradual deregulation. Future incidents, scientific advancements etc might raise the need to legislate for new process/issue/limits. Historically- new limits, regimes and laws were introduced, based on previously unknown set of facts.
15. **Mandate to ministerial powers** –despite the vision of freedoms and accelerated opportunity to change legislation, concerns mount as ministers can make substantial legislative changes without parliament scrutiny. Technical nature of laws and processes could become defunct, out of purpose and missing in fragile interactive systems. Furthermore- some more complex regulations affect multiple departments and agencies. These ministerial powers should be therefore defined (in terms of the Bill) and clarified. Mechanism of announced changes to law by ministers should be in place. Democratic process of parliament preventing such change should be made available.
16. Bill represents major overhaul of legal systems. New systems need to be delivered by competent personnel. Any **process can be as good as level of competency of people delivering it.** Availability of “Industry ready” people is vital to meet future legislative regulatory and operational needs of the country. Staffing and expertise/competency gap analysis should be conducted simultaneously with planning for future structures/processes. Building the competent workforce is long term process and can’t be based on already existing gaps/shortfalls. (I.e., OV capacity issues via over reliance on EU talent pool). Solutions need to seek



e existing resources (i.e., EH in this scenario). Any published plans so far do not deliver comprehensive plan on staffing state critical functions.

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APPENDICES

Img: 1: The real cost of outbreak: Examples of indirect costs of the outbreak

