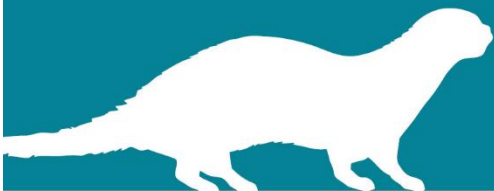




The
Wildlife
Trusts

Retained EU Law (REUL) Bill

Briefing for media



The Retained EU Law Bill risks weakening vital protections for nature, when more than ever we need stronger legislation and urgent action

The Retained EU Law Bill will have its second reading in the House of Commons on Tuesday 25th October 2022. It puts at risk hundreds of laws that protect our nature and wildlife, as well as regulations that protect public health, working conditions, and create a sustainable economy. It represents a push for deregulation at the expense of common sense.

For the environment, this bill detracts attention and resources from the real problems. During a nature and climate crisis, we must be focusing on taking urgent action to reverse the decline in biodiversity and reduce greenhouse gas emissions. This is not the time for reassessing existing laws that provide vital environmental protections – whether they originate from the EU or not.

The UK has set ambitious targets for nature recovery, from its aim to protect 30% of land and sea for nature by 2030 to its legally binding commitment to halt the decline in species abundance by 2030. Passing the REUL Bill will make reaching these challenging targets virtually impossible.

What is retained EU law?

Whilst a member of the EU, the UK relied on some legislation created by the EU, rather than in Westminster. To minimise disruption after Brexit, the UK converted EU law to domestic law and called it “retained EU law” – or REUL. REUL meant that pre-Brexit laws stayed in place to avoid gaps in the law on important areas like product standards, animal welfare and employment law. Almost three years later, a lot of REUL remains in place.



The REUL Bill is the UK Government’s plan for the more than 2,400 pieces of legislation that remain in force. The bill requires all retained EU law to be removed from the statute book. It sets out powers and timescales for the Government to do this. The powers are broad and overarching. There is no indication of which laws will be lost and which will be assimilated into domestic legislation, with or without changes.

The Government’s [REUL Dashboard](#) sets out all the REUL still in place. It identifies 570 pieces of legislation for Defra, though we believe in reality there are around 300 more to be added to this dashboard. Defra has the most REUL of any government department.

Our concerns

The Wildlife Trusts have four key concerns about the REUL Bill and its impact upon our ability to protect the environment:

Timing

The task of assessing and dealing with each piece of REUL is vast, especially for Defra. To date, [only three FTE officials](#) have been working on REUL at Defra, with no senior civil servant responsible for secondary legislation. At the same time, departments are being told to ready themselves for significant cuts as the new Chancellor has instructed them to find [“efficiency savings”](#).

Assuming work is not started until the REUL Bill gets assent, it is not feasible to assess and deal with all 570-plus pieces of REUL before the sunset deadline of 31st December 2023. The impossible timescale means that important legislation is likely to be overlooked or lost by default, either in the necessary prioritisation process or just because it is not dealt with in time. Whilst some laws will be given a later sunset of 2026, there is no clarity on which legislation will be given this extension or how this decision is made.

The tight timescale means we risk seeing replacement legislation written in haste and poorly executed, leading to ineffective legislation and lack of clarity that then has to be challenged through the courts. We could also see greater uncertainty as case law rules and principles fall away, leading to increased legal challenges through Judicial Review, or complaints to the Office for Environmental Protection.

Far from removing red tape, the REUL Bill is set to create extra work and uncertainty for both industry, conservation organisations, and Whitehall.

Lack of democratic process

The REUL Bill undermines democratic processes. It proposes wholesale change to the statute book with no parliamentary scrutiny, enabling ministers to repeal, revoke, replace or amend any REUL without explanation. All amendments and replacements to REUL will be dealt with through Statutory Instruments and the negative process – which means no parliamentary debate and no involvement of the House of Lords. There is no requirement for consultation with the UK Government’s own advisory bodies or expert stakeholders either.

Given the UK Government’s recent attack on nature and its characterisation of environmental protections as “burdens”, we have no confidence that ministers can be trusted to safeguard the environment when assessing REUL.

REUL also undermines the devolved powers of Wales, Scotland and Northern Ireland, by making decisions in Westminster on areas, like the environment, which are usually devolved. Both the [Welsh](#) and [Scottish](#) Governments have written to the UK Government to express their concerns in this area.

We risk seeing an ideological rush to deregulation from the UK Government without reference to societal need. This is a non-democratic process for some of our most important laws that safeguard the natural environment, and people’s health, safety and welfare.

Threat to nature

The REUL Bill is one element of the UK Government’s attack on nature. The loss of environmental REUL would impede the UK’s ability to meet legally binding 2030 targets to halt biodiversity decline and increase species abundance. We are particularly worried about the fate of the below pieces of EU-derived legislation:

- The Conservation of Habitats and Species Regulations 2017, known as the Habitats Regulations
- The Conservation of Offshore Marine Habitats and Species Regulations 2017
- Environmental Assessment of Plans and Programmes Regulations 2004
- Town and Country Planning (Environmental Impact Assessment) Regulations 2011
- Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 Regulations

The UK Government has claimed there is no intention to damage the environment with the REUL Bill, but this is not supported by its ongoing rhetoric on removing environmental red tape and “burdens” in the planning system.

The Wildlife Trusts believe these attacks are aimed at the Habitats Regulations in particular, and we have received no assurance to the contrary. The Habitats Regulations are intricately connected to other fundamental UK environmental legislation, such as the Wildlife and Countryside Act and the Marine and Coastal Access Act. If the Habitats Regulations are revoked, elements of these other laws will no longer work, leading to further loss of environmental protection.



We fear that the undoing of the Habitats Regulations, through the REUL Bill, could result in:

- Loss of protections for a list of 50 native species specifically protected under this law – this includes the common otter, dormice, dolphins, fen orchids and shore dock
 - Protections lost for other species protected from killing under the Habitats Regulations and not protected by other legislation – this includes seals and cetaceans
- Loss of the requirement for Habitats Regulations Assessment in the planning process, making it impossible to deliver Biodiversity Net Gain as mandated in last year's Environment Act
 - No requirement to mitigate the loss of habitat during development, threatening the survival of some species
 - Loss of the Special Areas of Conservation (SAC) and Special Protection Area (SPA) designations which cover vital wildlife sites in the UK
 - Less incentive to seek strategic solutions to the damage that nationally important nature sites are suffering

Risk to international reputation

This self-inflicted assault on nature will severely damage the UK's standing as an environmental leader on the world stage. With both climate talks at COP27 and biodiversity negotiations at COP15 taking place before the end of the year, the UK's work pushing for "high-ambition" outcomes will be undermined. How can we ask other countries, many of whom are less wealthy than the UK, to take serious action to protect the environment when we are not doing the same at home?

Undoing the Habitats Regulations through the REUL Bill will mean ignoring our duty to protect species that aren't just threatened in the UK, but worldwide. Biodiversity doesn't care about borders and we must play our part in securing the future of internationally rare species. Loss or amendment of the Habitats Regulations could see further declines in biodiversity and affect the UK Government's ability to meet its own and international nature targets. It could also leave gaps in compliance with Bern and Ramsar Convention duties.