



Joint briefing for amendments to Clause 15 and Clause 22 Retained EU Law (Revocation and Reform) Bill House of Lords Committee stage

This briefing has been jointly produced by Which? and the Chartered Trading Standards Institute (CTSI) regarding amendments to Clause 15 and Clause 22 which seek to maintain and strengthen consumer rights and competition policy following Britain's departure from the EU.

As part of its Safeguarding Our Standards campaign, CTSI has been joined by a coalition of organisations including the Chartered Institute of Environmental Health, the Child Accident Prevention Trust, Electrical Safety First, Action on Smoking and Health, and the British Toy and Hobby Association in calling for extra scrutiny of the Retained EU Law Bill.

Clause 15

Which? and CTSI back the following amendments tabled by the Earl of Lindsay (Conservative) which would remove the requirement for any changes to retained EU law (REUL) to have an overall effect of not increasing the regulatory burden.

Clause 15, page 19, line 17, leave out subsections (5) and (6)

Clause 15, page 19, leave out lines 29 to 35.

Following Britain's departure from the European Union, Which? and CTSI believe there is an opportunity to improve regulations to help protect consumers and support competition.

For example, we expect the forthcoming Digital Markets, Competition and Consumer Bill to improve the regulation of digital markets - enabling UK companies to more fairly compete against global tech companies - and update consumer protection regulations (which are currently retained EU law) to, among other things, stop fake reviews and prevent subscription traps.

Similarly, we believe there is an opportunity to improve retained EU law on product safety to address the lack of obligations on online marketplaces to only place safe products on the market in a similar way to how obligations apply to more traditional retailers. The Office for Product Safety and Standards (OPSS) is shortly due to publish the results of its review on updating product safety rules which might require changes to legislation and REUL.

Which? and CTSI have encountered numerous examples of products being sold on online marketplaces which do not comply with safety standards - highlighting the need for urgent



reform. Recent examples of unsafe products that Which? investigations have uncovered include:

- Heaters that do not comply with electrical safety standards;
- [Low-cost baby carriers](#) which failed safety tests;
- [Illegal Christmas lights](#) sold at AliExpress, Amazon, eBay and Wish.

Such reforms to consumer and competition law, and product safety, are long overdue.

However, **there is a risk that Clause 15 undermines the UK's ability to introduce important reforms to support both the economy and consumers by effectively requiring the Government to introduce changes which a) do not increase the overall "burden" of regulations or b) which are deregulatory in nature. Decisions about updating legislation should be based on a full impact assessment that includes consideration of the costs and benefits for society, not only any regulatory burden. The Earl of Lindsay's amendments seek to enable the Government to have a more flexible approach in designing replacement regulations.**

Which? and CTSI note there have been wider-ranging criticisms of clause 15 by House of Lords Committees:

- The [Secondary Legislation Scrutiny Committee](#) has described the scope of the powers in Clause 15 as 'immense' and that the safeguards in relation to the exercise of powers in Clause 15 'provide little comfort'.
- The [Delegated Powers and Regulatory Reform Committee](#) said Clause 15 was 'the most arresting clause in the Bill for its width, novelty and uncertainty' and 'contains an inappropriate delegation of legislative power and should be removed from the Bill.' They also noted 'there is no restriction on deregulation' within the Clause.
- The [Lords Constitution Committee](#) said the powers in Clause 15 are 'significant' including that the 'use of delegated legislation to create criminal offences is in general constitutionally unacceptable'.

While the House may also wish to challenge the broader powers in Clause 15, we urge Peers to support the Earl of Lindsay's amendments which are vital for ensuring the UK can chart its own regulatory path post-Brexit in a way which seeks to enhance competition in the economy while supporting consumer rights and protections.

Clause 22

Which? and CTSI back the following amendments tabled by the Earl of Lindsay (Conservative) which would exclude any regulations affected by the forthcoming Digital Markets, Competition and Consumer (DMCC) Bill from the scope of the REUL Bill:



Clause 22, page 24, after line 8 insert "(d) anything referred to in the Digital Markets, Competition and Consumer Act 2023."

In the Autumn Statement the Government said they would bring forward the DMCC Bill in this session of Parliament. This Bill will provide important reforms to competition and consumer law, including providing the Competition and Markets Authority (CMA) with new powers to tackle anti-competitive practices and updating REUL such as the Consumer Protection from Unfair Trading Regulations 2008 with measures to tackle fake reviews and subscription traps.

However, there is a very serious risk that the REUL Bill cuts across what the Government is trying to achieve through the DMCC Bill. We therefore believe that regulations that are in scope of the DMCC Bill should be excluded from the scope of the REUL Bill.

There is already a precedent for this as the Financial Services and Markets Bill, currently going through Parliament, is already excluded from the scope of the REUL Bill to avoid the risk of two different pieces of legislation contradicting each other. See clause (22)(5)(a) of the REUL Bill as well as schedule 1, clauses 72 and 78(3) of the Financial Services and Markets Bill. However, Peers should note that Which? has argued that the relevant clauses and schedule in the Financial Services and Markets Bill also need to be improved to ensure decisions about any remaining financial services REUL are accompanied by effective consultation and Parliamentary and stakeholder scrutiny.

We urge Peers to support the Earl of Lindsay's amendment to Clause 22.