

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref VG/0093/23

Paul Davies MS
Chair, Economy, Trade and Rural Affairs Committee
SeneddEconomy@senedd.wales

27th March 2023

Dear Paul,

Thank you for your letter of 8 February and for the Committee's continued focus on the implications of the Retained EU Law (Revocation and Reform) Bill.

Before answering the detailed points you have set out, it may be helpful to set out the challenging context in which the Welsh Government is operating in relation to the Bill, as the Counsel General and Minister for the Constitution explained in his letter of 19 January to the Chair of the LJC Committee.

Firstly, the Welsh Government fundamentally opposes the whole intent of the Bill. In general, our position is that retained EU law, like EU law before it, works well. Consequently, beyond gradually amending the law as appropriate with evidence-gathering, public consultation, and legislative scrutiny in the normal way, over time as with any body of law, we had no intention to repeal, revoke or amend REUL to an arbitrary deadline on ideological grounds. However, simply to propose legislation such as this that, by default, would repeal essential economic, social and environmental protections, is unacceptable and irresponsible. This is especially true because of the use of valuable time by Governments and legislatures when a good deal of this work will be merely to maintain in law those essential provisions the Bill would otherwise automatically remove. This nugatory work has no demonstrable benefit to anyone and is a regrettable use of finite resource in both the Welsh Government and the UK Government, caused by the decisions made by UK Government Ministers.

Secondly, the Bill is essentially an enabling Bill and its full implications will be influenced by policy choices of UK Government Ministers about which pieces of legislation should be retained, amended, or left to sunset. Unless, and until that detailed information is provided, we are all working in a very uncertain situation, with the obvious attendant difficulties that causes both for the Welsh Government, and for your Committee in a scrutiny role. I hope we can continue to engage collaboratively in dealing with this Bill in these regrettable circumstances, recognising our distinctive institutional roles, but also common interests in relation to the integrity of the devolution settlement.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The answers to your questions (in italics) are set out below.

...please can you provide the Committee with:

- ***Your views on the impact of the Bill on the sectors above and any other areas you think the Committee may be interested in;***

As indicated above, the impact on all sectors depends primarily on the decisions UK Ministers take to preserve existing REUL provisions or not. This impact would be enormously negative, in the most extreme case, if all existing REUL were allowed to come to an end in December 2023. However, we await detailed information from the UK Government about its intentions.

- ***A list of relevant Retained EU Law (REUL) made by Welsh Ministers within your remit;***

We are developing a list of REUL made in Wales and will provide this when we are in a position to do so.

- ***Your plans to use the Bill's powers in relation to standards within this Committee's remit, such as animal welfare;***

As explained above, retained EU law generally works well. We wish to see existing standards maintained in all areas within our remit, including animal welfare, and have no plans to use any such powers to alter standards.

- ***Information on what discussions you have had with other governments in the UK about the impact of the Bill on matters within the Committee's remit and whether/how any changes to relevant REUL might be coordinated, if the Bill is passed***

The Welsh Government has made very clear, at Ministerial level and on a number of occasions, our fundamental concerns about the nature and timing of the Bill. We are also in regular dialogue with the UK Government, Scottish Government and the Northern Ireland Civil Service at official level. We have made clear to the UK Government in these discussions, there is significant benefit in advance information sharing about its intentions, and substantive co-operation on proposals regarding REUL.

- ***Details of any impact on the Welsh Government's legislative plans where related to the Committee's remit;***

We will continue to share information about the Bill as it becomes available. We are open to having preliminary discussions, in confidence, about potential implications for business in the Senedd.

- ***Your views on how the Bill might interact with post-Brexit international trade agreements;***

Again, the best answer to this will depend on what pieces of REUL the UK Government decides to revoke, or allow to sunset, or reform. In general, we do not expect there will be a significant impact in this area, but we cannot yet be certain. We expect the UK Government not to remove pieces of REUL that are fundamental to its obligations under any FTAs, or under the EU-UK TCA.

▪ ***Your views on the Bill's potential impact on intra-UK trade, including its operation alongside the Internal Market Act 2020;***

As above, the Bill does not in itself, necessarily have any direct impact on intra-UK trade. Any impact will depend upon which pieces of REUL are ended or altered. We do not accept that the UK Internal Market Act fetters in any way the right of the Senedd to legislate on matters within its competence.

▪ ***Your views on how the Bill might interact with common frameworks within the remit of this Committee.***

Once again, it is too early to determine this impact. There are policy areas where the existence of common frameworks should assist with the issues and decisions involving any substantive changes to pieces of REUL.

Food and drink:

• ***Food safety – The Food Standards Agency (FSA) state they are responsible for over 150 pieces of REUL on food safety in England and Wales, plus 39 additional pieces in Wales, where it has wider responsibilities. The FSA states “we are clear that we cannot simply sunset the laws on food safety and authenticity without a decline in UK food standards and a significant risk to public health.”***

We agree. It remains to be seen how the UK Government intends to proceed in this area.

• ***Divergence – the Food and Drink Federation state “this has the potential to drive through significant divergence if changes are not aligned on a UK basis and this would then put additional burdens on Welsh businesses, particularly smaller enterprises”.***

We believe the UK Government needs to engage fully with Devolved Governments to consider all the issues for industry of any proposed change in standards, and to consider how this can best be managed within the devolution settlements. As outlined above, in general, we believe retained EU law works well. We await clear information from the UK Government on what relevant pieces of REUL it wishes to alter that would impact on the food and drink sector.

Farming:

• ***Farming standards - NFU Cymru have said that governments “may find themselves fighting hasty rear-guard actions to close legislative gaps which have opened up. Such scenarios will be damaging for business and consumer confidence and certainty”. They warn high standards must be properly rewarded from the marketplace, otherwise Welsh producers will simply be placed at a competitive disadvantage. They urge the Welsh Government to work with other governments to advocate high standards and resist a race to the bottom.***

We believe the UK Government needs to engage fully with Devolved Governments to consider all the issues for industry of any proposed change in standards and to consider how this can best be managed within the devolution settlements. In general, we believe retained EU law works well. We await clear information from the UK Government on what relevant pieces of REUL it wishes to alter that would impact on farming.

Animal Welfare:

• The RSPCA say that REUL contains “some of the most totemic and important changes in animal welfare” and are worried that standards could be at risk. They are also concerned about changes or the removal of reserved laws on Wales, such as bans on the veterinary use of hormones and prohibitions on imports of wild animals and seal products, and the use of animals in research.

The Bill has the potential to remove vital pieces of REUL that are the basis for important aspects of animal welfare. Once again, it remains to be seen what the UK Government proposes to do in practice in this field. We share the RSPCA’s concerns about potential changes to, or removal of, pieces of reserved REUL affecting those areas. We have asked the UK Government, as a general rule, to ensure that it involves Devolved Governments in its work on reserved REUL that could impact on devolved areas.

Yours sincerely,



Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy



Lesley Griffiths AS/MS
Minister for Rural Affairs and North Wales, and
Trefnydd
Y Gweinidog Materion Gwledig a Gogledd Cymru,
a'r Trefnydd