

House of Lords Briefing by the [Repeal Bill Alliance](#)

Day 2 Report Stage

Monday will see Day 2 of Report stage for the EU (Withdrawal) Bill and the all important votes on the Charter, maintenance of EU environmental principles and standards, and the thorny issue of the status of retained EU law.

As already stated in our [recently published briefing](#) to peers, we remain concerned about the lack of clarity around the legal status of EU retained law and have asked for an unambiguous definition of retained EU law. The recent government amendments have done little to address our concerns, and indeed feel that to some degree has added to more confusion¹.

In previous correspondence with members of the Constitution Committee we requested peers to ask the following questions of the government to try for clarification:

(1) What is the new hierarchy of law in the UK post-retention for the purposes of interpretation? i.e. what is the hierarchy of the categories of: primary legislation implementing EU law, SIs implementing EU law, “retained direct minor EU legislation”, and “retained direct principal EU legislation”?

(2) How can proposed paragraph 3E of Schedule 8 be reconciled with the retention of the principle of supremacy of EU law under clause 5?

(3) Please explain the logic and effect of proposed paragraph 3C of Schedule 8.

(4) The government’s new clause effectively demotes the status of delegated legislation that provide employment and equality protections derived from EU law. Previously that legislation could only have been modified in a way that was compatible with the protections conferred by EU law. How does the government justify this effective demotion in light of the promises to preserve employment and equality protections?

For further detail, see [Public Law Project's analysis on this issue](#) (section 24 - 26).

¹ The Governments amendments relate to New Clause after Clause 6 (26), the amendment to Schedule 7 (82) and the amendments to Schedule 8 relating to retained law (111 - 114).

In addition, **we urge support for amendment 21** laid by Lords Pannick, Goldsmith, Wallace of Tankerness, Viscount Hailsham, which will provide clearer guidance for courts and tribunals on the role of EU case law after exit day.

We are also concerned that environmental standards and principles are vulnerable to becoming weaker under the current provisions in the bill and are recommend peers to support **Amendment 27**, laid by Baroness Brown of Cambridge, Baroness Jones of Whitchurch, Baroness Bakewell and Lord Deben which will maintain EU environmental principles and standards in the bill.

Finally, Monday will also see votes on the Charter. To protect rights and standards, it is vital that the Charter is included in the bill. We therefore encourage support for **Amendment 15** laid by Lord Pannick, Goldsmith, Baroness Ludford, Lord Deben to keep the EU Charter of Fundamental Rights in the bill. A summary of the key points on this are to be found here: Liberty and Amnesty International UK's Joint Briefing on the EU (Withdrawal) Bill. A summary of the key points on this are to be found here: [Liberty and Amnesty International UK's Joint Briefing on the EU \(Withdrawal\) Bill](#) (pages 6-12).

We urge peers to support Amendment 15 laid by Lord Pannick, Lord Goldsmith, Baroness Ludford, Lord Deben to keep the EU Charter of Fundamental Rights in the bill.

For other related points please refer to :

[Report Stage in the House of Lords](#)

[Report Stage Briefing for Peers by the Repeal Bill Alliance](#)

About the Repeal Bill Alliance

The Alliance is a loose coalition of over 80 civil society organisations. Represented in the Alliance are organisations large and small, operating in a wide range of sub-sectors and in all four nations of the UK. The Alliance does not take a position on Brexit per se and activity will be in line with charitable purposes. For more information, click [here](#).

For more information please contact the Alliance's coordinator, Jane Thomas at jane@repealbill.org or 0207 278 4443.