



1. This note sets out the process for legislating for the extension of Article 50 that the UK and the EU have now agreed, and the consequences if this legislation is not in place by 29 March 2019; it supplements the note published on 14 March 2019 on the parameters of an Article 50 extension.

Process

2. Major changes to the UK statute book reflecting our exit from the EU are due to take effect on 'exit day', which is currently defined in the EU (Withdrawal) Act 2018 as 11pm on 29 March 2019. Now that the UK and the EU have agreed an extension to Article 50, this date needs to be amended to reflect the new point at which the EU Treaties will cease to apply in the UK. Section 20(4) of the EU (Withdrawal) Act 2018 contains a power to amend 'exit day' through a statutory instrument (SI). Once exercised, references to 'exit day' on the UK statute book will be updated.
3. However, the agreement reached with the EU provides for two possible durations:
 - a. an extension to 11pm on 22 May 2019 if the House of Commons approves the Withdrawal Agreement by 29 March; or
 - b. an extension to 11pm on 12 April 2019 if it does not, before which the UK would need to put forward an alternative plan or decide to leave without a deal.
4. The Government has therefore laid today, Monday 25 March, a draft SI under section 20(4) that provides for both of these possibilities: 'exit day' as amended would be 11pm on 22 May 2019 if the Withdrawal Agreement was approved by the House before 11pm on 29 March 2019; otherwise it would be 11pm on 12 April 2019.
5. An SI laid under this power is subject to the draft affirmative procedure, meaning that it must be debated and approved in each House before it can be made.

Consequences of not passing the legislation

6. The extension of Article 50 has been agreed with the EU, and is therefore legally binding in international law. This means that the UK will remain a Member State until at least 11pm on 12 April 2019, regardless of the passage of the SI to amend 'exit day' at the domestic level. The Government will also now delay commencement of the repeal of the European Communities Act 1972, and other provisions of the EU (Withdrawal) Act that likewise require commencement.
7. However, a rejection of the 'exit day' SI would cause serious problems and uncertainty with regard to the domestic statute book from 11pm on 29 March. A large volume of EU exit legislation preparing the domestic statute book for the moment EU law ceases to apply is due to enter into force automatically on 'exit day.' A rejection of the SI would therefore create a clash in domestic law; contradictory provisions would apply both EU rules and new UK rules simultaneously, and in some cases new UK rules would replace EU rules prematurely. This could generate confusion and uncertainty for businesses and individuals, resulting in litigation. In some cases, it could restrict the rights of individuals or impair the ability of public bodies to operate within the framework of EU rules.