



Department
for Exiting the
European Union

Implementation period

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EU (Withdrawal Agreement) Bill



OVERVIEW

The UK has agreed a new Brexit deal with the EU. The EU (Withdrawal Agreement) Bill will implement this new deal in UK law, and deliver Brexit by 31st January 2020.

*The **Bill** will: take back control of our laws by reaffirming the sovereignty of Parliament; end vast annual payments to Brussels; protect the Union by ensuring we leave as one United Kingdom; protect the rights of EU citizens, **EEA EFTA** and Swiss nationals living in the UK; and secure an **implementation period** to give businesses certainty.*

As part of the **Withdrawal Agreement**, the UK and the EU agreed an **implementation period** in order to provide continuity and certainty. During this time, EU law will generally continue to apply in the UK as it does now. This will mean that UK businesses and individuals will be able to continue to access EU markets as they do now, and the same for EU businesses and individuals in the UK.



The Government intends to negotiate arrangements for the UK's future relationship with the EU during the **implementation period**. As a result there will only be one set of changes for businesses and individuals to respond to at the end of the **implementation period**. Both UK nationals in the EU and EU citizens in the UK, legally resident before the end of the implementation period, will enjoy largely the same rights as they did before exit day, and businesses will be able to continue to trade across EU markets as they do now during the **implementation period**.

To give effect to the **implementation period**, the EU (Withdrawal Agreement) Bill will need to update the EU (Withdrawal) Act 2018 to reflect the new deal reached with the EU. Before setting out these changes, below is an explanation of the relevant provisions of the EU (Withdrawal) Act 2018.

WHAT DOES THE EU (WITHDRAWAL) ACT 2018 DO?

The EU (Withdrawal) Act 2018 was designed to prepare our **statute book** for Brexit without pre-empting the outcome of our negotiations with the EU. It was drafted before the **Withdrawal Agreement** was finalised and therefore for a scenario in which EU law would cease to apply in the UK on exit day.

As we leave the EU, we need to end the supremacy of EU law and remove the mechanism enabling the flow of new EU law into domestic, and that is why, on exit day, the EU (Withdrawal) Act 2018 repeals the **European Communities Act 1972 (ECA)**. This is subject to the time-limited saving of the ECA for the duration of the **implementation period**, which ensures that EU law can continue to have effect during this period as it did while the UK was a Member State of the EU.

The ECA has given effect to EU law in the UK for more than 40 years. The EU (Withdrawal) Act 2018 is due to convert EU law into domestic law on exit day, as well as saving domestic law relating to the EU. It also contains a power for the Government to correct saved EU and domestic law that is deficient, such as where it has references to regulatory bodies which will no longer have a role in the UK after we have left the EU.

WHAT HAPPENS DURING THE IMPLEMENTATION PERIOD?

During the **implementation period**, EU rules and regulations will need to continue to have effect in the UK and references on the **statute book** to EU institutions will need to remain, which will ensure continuity for businesses and citizens.

The **Bill** will therefore delay the conversion and saving of EU law into domestic law so that it occurs at the end of the **implementation period**.

The **Bill** will also extend the length of time that the power to correct saved EU and domestic law is available to the Government, for a period of two years after the **implementation period** ends. This will give Ministers enough time to correct any further problems that are identified.

WHAT CHANGES NEED TO BE MADE TO THE EU (WITHDRAWAL) ACT 2018?

The EU (Withdrawal Agreement) Bill will amend the EU (Withdrawal) Act 2018 to give effect to the **implementation period**. The **Bill** will ensure that the effect of the **ECA** will be saved for the duration of the **implementation period**, so that EU law can continue to have effect during this period as it did while the UK was a Member State of the EU. This provides continuity for businesses and citizens. This process is explained below.

‘REPEAL AND SAVE’ OF THE EUROPEAN COMMUNITIES ACT 1972

As the UK is leaving the EU, the mechanism that allows EU law to flow into UK law will be repealed. However, to give effect to the **implementation period**, this mechanism will be for a time-limited period. The flowchart below establishes how the **Bill** will provide for EU law to continue to apply to the UK during the **implementation period**:

As an EU Member State, EU law has precedence over UK domestic legislation



EU law is given effect in the UK through the **ECA**



As we leave the EU, we need to end the supremacy of EU law and remove the mechanism enabling the flow of new EU law into UK law



Therefore, the UK will repeal the **ECA** on exit day, via the EU (Withdrawal) Act 2018



The UK and EU have agreed a time-limited **implementation period**, during which EU law will continue to apply to the UK, to provide continuity and greater certainty to businesses and citizens



The UK will still repeal the **ECA**. This is an important part of leaving the EU



The EU (Withdrawal Agreement) Bill will then amend the EU (Withdrawal) Act 2018 so that, even though it has been repealed, the effect of an amended **ECA**, repurposed for the **implementation period**, is saved for the duration of the **implementation period**



This approach will provide legal certainty to businesses and individuals during the **implementation period** by ensuring continuity of EU law in the UK during this time



The EU (Withdrawal Agreement) Bill will ensure that the **ECA** ceases to apply at the end of the **implementation period**

During the **implementation period**, EU law will continue to apply in the UK under the terms set out in the **Withdrawal Agreement**. Given the way the EU's legislative processes work, most EU law which will come into force during the **implementation period** will have been agreed while the UK is still a Member State. This means that the UK Parliament will already have scrutinised much of this new legislation.

To ensure that the UK's interests are still protected after Brexit, certain safeguards have been agreed by the EU and UK:

- Both parties are obliged to act in **good faith** through the application of the **Withdrawal Agreement**.
- A **Joint Committee** will be established that will be composed of representatives from both parties, and provide a means to ensure the smooth functioning of the **implementation period**, and for either side to raise any concerns which could arise during the **implementation period**. It will take decisions only by mutual consent of the parties. The **Bill** provides that the **Joint Committee** will always be co-chaired by a UK Government Minister.

EU law will continue to apply in the UK during the **implementation period**, but the UK will no longer form part of the EU's political institutions or take part in its lawmaking activities. The **Bill** will also therefore contain a clause to ensure parliamentary scrutiny over legislation made, or which may be made, during the **implementation period** that will, in the opinion of the House of Commons' European Scrutiny Committee, affect the UK's vital national interests. This clause will also include a similar provision in relation to scrutiny of EU law by the House of Lords EU Select Committee.

IMPLEMENTATION PERIOD WILL END ON 31 DECEMBER 2020

The Government will not extend the **implementation period** beyond 31 December 2020. To reaffirm this commitment, the **Bill** prohibits Ministers agreeing to an extension of the **implementation period** in the **Joint Committee**.

KEY TERMS

ACT OF PARLIAMENT

An Act of Parliament is a law that both Houses of Parliament have agreed to and which has received Royal Assent. It is enforced in all the areas of the UK where it is applicable.

BILL

A proposal for a new law or an amendment to an existing law that has been presented to Parliament for consideration. Once agreed and made into law, it becomes an Act.

EUROPEAN COMMISSION

The Commission is the main executive body of the EU. It has general executive and management functions. It can negotiate international agreements on behalf of the EU and represents the EU in international organisations. The Commission oversees and enforces the application of Union law, in particular by initiating infraction proceedings where it considers that a Member State has not complied with its EU obligations.

EUROPEAN COMMUNITIES ACT 1972

This Act enables EU law to be directly applicable in UK law where relevant. Further, it provides the government with the power to implement EU obligations in domestic law.

GOOD FAITH

The principle of good faith is well established in international law. Acting in good faith means that both parties should approach the Agreement with fairness, consistency and sincerity.

IMPLEMENTATION PERIOD

Time-limited period following the point at which the UK leaves the EU. During this period, EU law will continue to apply in the UK subject to the terms set out in the Withdrawal Agreement.

JOINT COMMITTEE

A committee composed of representatives from the UK and the EU that will oversee the application and implementation of the Withdrawal Agreement. Other Joint Committees will perform a similar function for the EEA EFTA and Swiss agreements.

STATUTE BOOK

The body of legislation that has been enacted by Parliament or one of the devolved legislatures and has effect in the UK.

WITHDRAWAL AGREEMENT

The international agreement between the UK and the EU that sets out the respective rights and obligations of both parties following the UK's withdrawal from the EU.



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