



Department
for Exiting the
European Union

Independent Monitoring Authority for the Citizens' Rights Agreements

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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.*

The UK has made agreements with both the EU and the **EEA EFTA** states to guarantee the rights of their citizens living in the UK and Gibraltar. As part of this the UK is establishing the Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) to monitor the UK's implementation and application of the citizens' rights parts of the **Agreements**, and ensure that citizens are able to enjoy these rights.

It will be operational from the end of the implementation period (31 December 2020), and space has been made available in Swansea for the IMA to establish its headquarters. Likewise, the EU and **EEA EFTA** states have guaranteed the rights of UK citizens living in their territories, which will be overseen by equivalent authorities.



WHAT WILL THE IMA DO?

The IMA will be established to monitor the UK's application of the citizens' rights parts of the **Agreements** and identify any breaches. For example, it will be able to identify any issues through complaints from the public, through considering draft legislation published by the Government, or through other routes, which could include working with regulators or citizens' rights groups to identify issues.

The IMA will exercise its powers of inquiry to hold public authorities to account, with a particular focus on instances where there have been general or systemic failings in the implementation of the citizens' rights agreements. If such a failure is identified, the IMA will set out to the relevant authority its concerns over the way it has interpreted and applied the rules. The IMA does not replace existing avenues of redress; EU citizens will continue to have recourse to all existing routes of complaint and appeal that exist under UK law, including the many authorities, tribunals and ombudsmen that currently enforce the rights of citizens in the UK.

The IMA will have the power to:

RECEIVE COMPLAINTS

Those who feel that their rights have not been properly implemented by UK authorities will be able to make a complaint directly to the IMA. These complaints will help the IMA to identify possible breaches of the citizens' rights agreements and decide whether they require further action. The IMA will be able to receive complaints from:

- EU citizens and their family members ("family members" in all cases includes children)
- **EEA EFTA** citizens and their family members
- UK nationals who derive rights from the citizens' rights part of the **Withdrawal Agreement** and their family members
- Those who have equivalent rights to those contained in the **Withdrawal Agreement** and **EEA EFTA Separation Agreement** as a result of their eligibility to claim settled status
- Legal representatives of the above groups

LAUNCH INQUIRIES

Where the IMA believes that there may have been a failure in the way in which a UK authority has implemented the citizens' rights agreements, the IMA can launch an inquiry. It can do this on its own initiative, in response to complaints received, or at the request of the Secretary of State, the Scottish or Welsh Ministers, or the Executive Office in Northern Ireland.

Following an inquiry, the IMA will publish a report setting out its conclusions and any recommendations for how the authority in question can address the issue. The public authority will then be required to respond, setting out what actions it intends to take in relation to each recommendation.

BRING LEGAL ACTION

The IMA will also be able to bring **judicial review** proceedings against a public authority that has failed to implement or apply the citizens' rights agreements correctly.

INDEPENDENCE AND TRANSPARENCY

The IMA will be independent, with its own legal personality separate from Government. As with other independent authorities (such as the Equality and Human Rights Commission, the Information Commissioner's Office, etc.), it will report to a Minister and be sponsored by a government department - in this case the Ministry of Justice. This structural arrangement will maintain its independence while allowing Government and Parliament to understand how it is using its resources, and ensure public money is used effectively. The Government will have no role in the day-to-day running of the IMA or the decisions it makes on complaints or investigations.

The IMA will be run by an independent board which will consist of members with experience in the areas covered by the citizens' rights agreements and with knowledge of relevant laws and issues in Scotland, Wales, Northern Ireland, and Gibraltar.

The **non-executive board members** will appoint **executive members of the board**, and must consult the Secretary of State before appointing the chief executive. This is with the exception of the first chief executive, who will be appointed by the Secretary of State in order to make delivery decisions necessary for the set-up of the IMA, and who will be replaced by the first chief executive appointed by the **non-executive board members**. All appointments will be made through fair and open competition in accordance with the Governance Code on Public Appointments. The Secretary of State will be accountable to Parliament for the appointments they make under this code.

Board members will be subject to strict rules regulating conflicts of interest and will be required to declare any interests in a register held by the IMA.

The board will submit an annual report to the UK Parliament, the **devolved legislatures**, the UK-EU specialised committee on citizens' rights (linked to the **Joint Committee** established by the **Withdrawal Agreement**) and the separate **Joint Committee** for the UK and **EEA EFTA** states. This report will include details as to the nature and number of complaints received by the IMA, as required by the **Withdrawal Agreement**, as well as any other information the IMA thinks will be useful in understanding its work.

KEY TERMS

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.

DEVOLVED ADMINISTRATIONS

These are the Scottish Government, the Welsh Government and the Northern Ireland Executive.

DEVOLVED COMPETENCE

The areas in which the devolved legislatures are responsible for making laws ('legislative competence') or the devolved administrations are responsible for governing or making secondary legislation ('executive competence').

DEVOLVED LEGISLATURES

The law making bodies of the devolved nations of the UK. These are the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

EEA EFTA SEPARATION AGREEMENT

An international treaty between the UK and **EEA EFTA** countries (Norway, Iceland and Liechtenstein) that sets out the respective rights and obligations of all parties following the UK's withdrawal from the EEA.

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 ECONOMIC AREA (EEA)

The **EEA** includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU's single market. See the *EEA EFTA Separation Agreement factsheet* for more detail.

EUROPEAN FREE TRADE ASSOCIATION (EFTA)

The EFTA states are Switzerland, Norway, Liechtenstein and Iceland. See the *EEA EFTA Separation Agreement factsheet* for more detail.

EXECUTIVE BOARD MEMBER

Executive board members oversee the day to day management of an organisation.

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.

JUDICIAL REVIEW

Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.

NON-DEPARTMENTAL PUBLIC BODY

An organisation that has a role in the process of national government, but is neither a government department or part of one. It operates independently of government ministers.

NON-EXECUTIVE BOARD MEMBER

Non-executive board members set the strategic direction and advise on policy for an organisation. They are not involved in the day to day management of the organisation.

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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