

What does Schedule 1 do?

Schedule 1 lists a number of Articles in the EU Treaties where decisions are currently taken by unanimity, consensus or common accord – and where the UK can block a measure being agreed if it was contrary to our national interest.

The Government believes that the giving up of a veto would constitute a transfer of power, and have therefore provided that where there is a proposal to give up a veto in an area of great sensitivity to the UK – the so-called “red lines”, then this should only be permitted following approval by Parliament and the British people.

What is in Schedule 1 and why?

The 48 Treaty articles in Schedule 1 are linked to traditional “red lines” for the UK:

1. Foreign and defence policy
2. Economic and tax policy
3. Justice and home affairs
4. Social, social security and employment policy
5. Citizenship and elections
6. Rights of membership and enlargement

Vetoes can be given up in four ways:

1. Treaty change through the Ordinary Revision Procedure (ORP) which requires a treaty change agreed by an Intergovernmental Conference, usually following a Convention;
2. Treaty change through the Simplified Revision Procedure (SRP) under Article 48(6) TEU;
3. Treaty change through the Simplified Revision Procedure (SRP) under Article 48(7) TEU;
4. In specified areas in the Treaties, through the use of a *passerelle*, which does not require treaty change; only by a decision of the European Council in agreement with the European Parliament.

This is why some vetoes are listed in Clause 6 and Schedule 1 of the Bill – to ensure that, regardless of the way in which a veto is to be given up, it should be the subject of the veto that should determine whether or not the consent of the British people should be sought. We are reflecting the detail of the treaties, and a simple definition would have left too much to Ministerial discretion and to the Courts. Listing the vetoes means that Parliament decides.

What does Schedule 1 NOT do?

Schedule 1 does NOT affect the USE of the decisions listed in Schedule 1. The UK would still be free to agree any of these decisions by unanimity.

But if there were ever a proposal to give up the veto – to give up the UK’s ability to say “no” to a measure that we found contrary to our national interests – then this would be a one-way step in a sensitive area, and could lead us being bound to decisions that run against our national interests.

Before this happens, we should therefore seek the views of the British people.

Does this mean 56 referendums being held?

No. There won’t be a series of single-issue referendums on the EU. Given the nature of treaty change negotiations, it is highly improbable that there would be a treaty change just on one veto.

After several treaty revisions these areas still remain at unanimity – there is no agreement among Member States to give up the vetoes in these areas because they are sensitive for a number of governments. Even if they were, it is highly likely that a proposal to remove any veto would only occur as part of an package of measures, given the arduousness of treaty change and given the need for unanimity of all Member States to approve the giving up of a veto.

Why is Schedule 1 referred to so often in the Bill?

Because there is more than one way of giving up a veto – and so to ensure a logical approach, we have made provision to require a referendum whenever there is a proposal to give up a veto in Schedule 1, regardless of the way in which it is to be given up.

What role does Parliament have?

In every case of treaty change or the use of a passerelle, Parliament would be required to legislate to (a) approve the proposal; and (b) legislate for the holding of a referendum where required under this Bill. As is always the case, Parliament can disapply the referendum provision at any time during the legislative process, just as they can insert a referendum requirement in an area not provided for in the Bill.

SO WHAT IS IN SCHEDULE 1?

1 Foreign and defence policy

Article 22(1) TEU – decisions on EU objectives in foreign policy.
Chapter 2 of Title V TEU – provisions for the common foreign and security policy.

Article 203 TFEU – relations between the EU Member States' Overseas Territories (e.g. the Falklands).

Article 218(8) TFEU – regulations on EU agreements with non-EU states.

Article 222(3) TFEU – provides for Member States acting jointly if one suffers a terrorist attack or natural or man-made disaster.

Article 346(2) TFEU – changes to the list of military products exempt from the single market.

3 Justice and home affairs

Article 77(3) TFEU – regulations for passports, identity cards, etc.
Article 82(2)(d) TFEU – mutual recognition of Member States laws and regulations.

Article 83(1) TFEU – regulations on crime.

Article 86(1) and (4) TFEU – rules on setting up and expanding the powers of a European Public Prosecutor's Office.

Article 87(3) TFEU – decisions on police co-operation across Member States.

Article 89 TFEU – decisions on conditions and limitations for policing authorities operating in Member States other than their own.

5 Citizenship and elections

Article 22(1) TFEU – voting rights for EU citizens for European Parliament and local elections.

Article 22(2) TFEU – rights for EU citizens to stand for the European Parliament.

Article 25 TFEU – strengthening or adding to the rights of EU citizens listed in Article 20(2) of TFEU.

Article 223(1) TFEU – regulations for elections to the European Parliament.

2 Economic and tax policy

Article 113 TFEU – decisions on harmonising Member States' indirect taxes.

Article 115 TFEU – decisions on national laws affecting the Single Market, mainly with a fiscal implication.

Article 121(2) TFEU – European Council conclusions on economic policies.

Article 126(14) TFEU – decisions on how the EU addresses excessive Member States government deficits.

Article 127(6) TFEU – European Central Bank supervision of credit and other financial institutions.

Article 192(2) TFEU – EU action regarding the environment with a fiscal element.

Article 194(3) TFEU – rules for energy and the Single Market with a fiscal element.

Article 311 TFEU – regulations for the EU raising its own resources.

Article 312(2) TFEU – decisions on the EU's multi-annual financial framework (five-year budget plan).

4 Social, social security and employment policy

Article 19(1) TFEU – measures to combat discrimination.

Article 21(3) TFEU – decisions on social security or social protection).

Article 153(2)(b) TFEU – decisions on working conditions.

Article 155(2) TFEU – decisions on EU-level industrial relations agreements.

6 Rights of membership and enlargement

Article 7(2) TEU – procedures for Member States in breach of EU obligations.

Article 14(2) TEU – function and composition of the European Parliament.

Article 15(4) TEU – provision for the European Council to decide by consensus.

Article 17(5) TEU – function and composition of the Commission.

Article 19(2) TEU – function and composition of the European Court of Justice.

Article 48(3), (4), (6) and (7) TEU – rules for treaty change.

Article 49 TEU – decisions on new Member States applying for EU membership.

Article 50(3) TEU – how long the treaties apply to states leaving the EU.

Article 332 TFEU – who pays for costs of enhanced co-operation.

Article 333(1) and (2) TFEU – decisions on moving to majority voting/ordinary legislative procedure in specified areas of enhanced co-operation.

Article 352(1) TFEU – enables EU action where there is no explicit provision in the Treaties.