



European Union (Withdrawal) Bill

Introduction

The standout piece of legislation that will be the legislative process by which the UK exits the EU has undergone a period of transformation in its short existence. Initially referred to as the 'Great Repeal Bill' and then just the 'Repeal Bill', when laid before parliament it became the less glamorous 'European Union (Withdrawal) Bill'. The Bill follows the Great Repeal Bill White Paper, which was published in March 2017.

Background

The Bill is the flagship piece of Brexit legislation and its purpose is to transpose the EU acquis onto the UK statute book.

- It will repeal the 1972 European Communities Act, which took Britain into the EU, and meant that European law took precedence over laws passed in the UK parliament. It will also end the jurisdiction of the European Court of Justice.
- From a legal perspective, it is therefore critical. It also creates temporary powers to make secondary legislation to enable corrections to be made to the laws that would otherwise no longer operate appropriately once the UK has left, so that the domestic legal system continues to function correctly outside the EU.
- It is the first of eight Brexit Bills the government announced it will bring forward in this year's Queen's Speech and is expected to be incredibly controversial, with MPs and peers who want to push Britain towards a softer Brexit already stating they plan to table significant amendments.
- It should be noted that the confidence and supply agreement the Conservatives have with the DUP includes supporting the government on legislation "pertaining to the UK's exit from the EU".
- The Bill is likely to be "one of the largest legislative projects ever undertaken in the UK", with "major swathes of the statute book" needing to be examined to see how they will work after Brexit. The Bill represents a major legislative and political challenge for this government, amplified when operating without a true majority in parliament.
- The government's White Paper on the Repeal Bill had no precise figure for the number of EU rules which will be transferred into domestic law. However, it notes that there are currently more than 12,000 EU regulations in force. Parliament has passed 7,900 statutory instruments (SIs) implementing EU legislation and 186 Acts which incorporate a degree of EU influence.

Bill contents

- **Long title:** A Bill to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU.
- **Purpose of the Bill:** The Bill has four main purposes and is split into six sections. The purposes are to:
 - Repeal the European Communities Act 1972
 - Ensure the retention of existing EU law
 - Ensure power are made available in connection with the withdrawal (this will include SIs, and Henry VIII powers)
 - Introduce measures dealing with devolution.
- **Additional schedules:** These are parts of a Bill that appear after the main Clauses and are used to spell out in more detail how the provisions of the Bill are to work in practice. They fall into the following themes:
 - Further provision about exceptions to savings and incorporation.
 - Corresponding powers involving devolved authorities and amendments to devolution legislation.
 - Powers in connection with fees and charges.
 - Publication and rules of evidence.
 - Instruments which are exempt EU instruments.
 - Scrutiny of future regulations and deficiencies.
 - Consequential, transitional, transitory and saving provision.
- **Charter of Fundamental Rights:** Will not be part of domestic law on or after exit day.
- **European Court:** A UK court is not bound by any principles laid down, or any decisions made, on or after exit day; and in deciding whether to depart from any retained EU case law, the Supreme Court or the High Court of Justice must apply the same test as it would apply in deciding whether to depart from its own case law.
- **Statutory instruments:** There appears to be some limitations on the length of time these will be available to ministers and on how they can be used. For example, SIs cannot be used to impose taxation, create criminal offences or "amend, repeal or revoke the Human Rights Act". Furthermore, no regulations may be made after the end of the period of two years beginning with exit day.



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Next steps

- The Bill has only had its 'first reading' – this is the initial stage of a Bill's passage through parliament. It is essentially a formality and takes place without debate.
- The next stage is 'second reading', the first opportunity for MPs to debate the general principles and themes of the Bill. Second reading is scheduled to take place on 7 September and 11 September 2017.
- The Bill's passage through parliament will run in parallel to the UK's negotiations with the EU. The Bill will progress through the following parliamentary stages in order to become an Act of Parliament.

“ The Bill is one of the most seismic undertakings that Westminster has attempted ”

Contentious issues

- The Bill is one of the most seismic undertakings that Westminster has attempted, which the House of Lords Constitution Committee described as “unique challenge”, because “the body of EU law is found in a number of different places, and in a number of different forms”.
- The Repeal Bill White Paper explained that simply transposing all EU law into UK legislation will not be enough, because large amounts of UK law refers to EU institutions.
- As a result, the government plans to create powers to “correct the statute book where necessary”. To the outrage of opposition parties, this is to be done without full parliamentary scrutiny. The government plans to use so-called “Henry VII powers” to do so, referring to the Statute of Proclamations 1539 which gave him the power to legislate by proclamation.
- So-called “Henry VIII clauses” today give the government powers to change old laws that have already been passed by parliament, while allowing the Prime Minister to change existing laws without the full approval of parliament.
- Ministers insist they need these powers to “correct” European laws that refer to EU bodies soon to be defunct after Brexit. However, opposition parties maintain (in full below) that there is a deep scrutiny gap owing to the circumvention of parliament.
- Brexit Secretary David Davis has said any powers created in this way will be “time limited” and “Parliament will need to be satisfied that the procedures are appropriate”.
- The government has estimated that transferring EU law into UK law will require between 800 and 1,000 statutory instruments (SIs), outlining the size of the task at hand.

Opposition positions

- **Labour:** Vowed to vote against the Bill unless there are significant concessions in areas including:
 - Ensuring workers' rights in the UK do not fall behind those in the EU.
 - Incorporating the European Charter of Fundamental Rights into UK law.
 - Limiting the scope of so-called “Henry VIII powers”.
- **Liberal Democrats:** Vowed to work with pro-EU Conservatives to soften PM Theresa May's original concept of Brexit. The party is also calling for proper oversight and transparency over the Bill, with new leader Vince Cable reportedly having been in touch with Labour remainers and Tory rebels to oppose the Bill.
- **SNP:** Repeatedly threatened to derail Brexit unless Scotland is handed new powers repatriated from Brussels.



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Legislative timeline

Date	Stage	Process	Opportunity for engagement
House of Commons			
13 July 2017	First Reading, House of Commons Time: Nil	European Union (Withdrawal) Bill introduced to parliament	No
21 July – 3 September 2017	Summer recess	No legislative activity but useful opportunity to brief MPs ahead of second reading	Yes
7 September 11 September 2017	Second Reading, House of Commons Time: 2 days A programme motion is likely to be moved after Second Reading. This allots the time allowed for each stage of the Bill in the Commons.	The first opportunity for MPs to debate the principles of the Bill. At the end of the debate, the Commons vote to decide whether the Bill should progress to the next stage. No amendments can be made to the text of the Bill at this stage, although members may give an idea of the changes they will be proposing at later stages.	Yes
The first opportunity for the Committee Stage to commence would be the week commencing 18 September	Committee Stage, House of Commons Time: TBC	As a Bill of constitutional significance, this will be taken in the Committee of the Whole House and will allow all MPs to examine and potentially amend the legislation line-by-line. This will be done over several sittings. However, until a programme motion is tabled, it will not be clear how many days the government will designate to this stage or how quickly this process will take.	Yes
Expected one week following end of Committee Stage	Report Stage, House of Commons Time: Likely one day	Further opportunity for amendments.	Yes
Could be taken on the same day as Report Stage	Third Reading, House of Commons Time: Likely one day or less	The House of Commons votes to either approve or reject the final Bill.	No

House of Lords

Progress through the Lords is less predictable. The government has significantly reduced control, there are fewer procedural rules and it is not possible to schedule business in the same way as the Commons.

	First Reading, House of Lords	Bill presented.	No
Normally two weekends after First Reading	Second Reading, House of Lords	Peers debate the key principles and main purpose of the Bill, and flag any concerns or specific areas where they think amendments (changes) are needed.	Yes
Usually two weeks after Second Reading	Committee Stage, House of Lords	Line-by-line scrutiny of the Bill and peer's first opportunity to table amendments.	Yes
Usually two weeks after Committee Stage	Report Stage, House of Lords	Additional opportunity for peers to table amendments.	Yes
Three sitting days after Report Stage	Third Reading, House of Lords	Final opportunity for peers to table simple housekeeping amendments.	No



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Ping Pong (if required)

This is the process which seeks to ensure agreement on the final text of the Bill by both Houses. It is only necessary if the House of Lords amend the text of the Bill.

Ping Pong can become extremely complicated. The government would usually programme the time it gives to consideration of Lords amendments but the Lords cannot, meaning this stage has the potential to run for several days.

Royal Assent

Before receiving Royal Assent, both the House of Commons and the House of Lords must agree on a version of the Bill. This can take place any time after the completion of Ping Pong, and happens when, on the instruction from the Monarch, both the Speaker and Lord Speaker have notified the Commons and the Lords respectively that Royal Assent has been achieved and that the Bill is now an Act of Parliament. Once this has happened, the Bill becomes law.

Useful links

[Great Repeal Bill White Paper](#)

[Legislating for Brexit: the Great Repeal Bill](#)

[Parliament.uk - Great Repeal Bill Published](#)

Contact

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