

# Withdrawal Agreement Act



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## Why is the Withdrawal Agreement Act needed?

The UK needed a bill to implement the [Withdrawal Agreement](#), which is the legally binding treaty setting out the negotiated terms of the UK's departure from the EU.

This is for two reasons:

1. **To meet our international obligations.** When the UK becomes party to an international treaty, the treaty does not automatically take effect in UK law. Instead, Parliament must legislate to give effect to the treaty.
2. **A full Act of Parliament was required by prior legislation.** Under the [EU \(Withdrawal\) Act](#), Parliament had to pass a further Act before the UK was allowed to ratify the treaty

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## What does the Withdrawal Agreement Act say?

Subject	
Transition period	
What does the Withdrawal Agreement Act say?	EU law <i>Clause 1</i>
Has this changed from the bill published in October 2019	During the transition period, almost all EU law will continue to apply in the UK. The bill achieves this by keeping parts of the <a href="#">European Communities Act in 1972</a> in force for the duration of the transition period. This is the statute that has given effect to EU law during the UK's membership of the EU.
	No.

## Extending transition

Clause 33

### What does the Withdrawal Agreement Act say?

The transition period will end in December 2020. The transition period could have been extended under the Withdrawal Agreement if the UK and EU jointly agreed to do so before 1 July 2020 – however, the Act prohibited ministers from agreeing any extension.

In accordance with the Act, no extension was agreed before the July deadline.

### Has this changed from the bill published in October 2019

Yes.

Previously ministers were able to agree an extension to the transition period, if the House of Commons had approved such an extension.

Now it would require further primary legislation for the prime minister to extend the transition.

## New EU laws

Clause 29

### What does the Withdrawal Agreement Act say?

The bill specifies a process for scrutinising any EU laws which are made during the transition.

If the European Scrutiny Select Committee of MPs or EU Select Committee of Lords decide that a new EU law “raises a matter of vital national interest” to the UK, it can ask for a debate on the issue in the House of Commons or the House of Lords. The government must then make time for that debate within 14 sitting days, but MPs are not able to stop those rules entering into force.

### Has this changed from the bill published in October 2019

Yes.

The new bill includes a role for the House of Lords in scrutiny of new EU laws.

## Parliament's role in negotiations

What does the Withdrawal Agreement Act say?

Not referenced

Has this changed from the bill published in October 2019

This section has been removed. Previously the government was required to seek approval of its negotiating objectives from Parliament, which must be consistent with the [Political Declaration](#) of 17 October 2019.

The government is also no longer required to report on progress of the negotiations every three months, nor is it required to seek approval from Parliament for its future relationship treaty.

## Joint Committee

*Clauses 30, 34 and 35*

What does the Withdrawal Agreement Act say?

The UK's role as co-chair of the Joint Committee can only be carried out by a minister.

The UK, and its co-chair of the Joint Committee, is not able to use the written procedure – allowing decisions of the Joint Committee to be made through correspondence rather than at a meeting of the committee.

The government will be required to report to Parliament if any disputes are initiated in the Joint Committee and if the European Court of Justice has been required to give a ruling on a dispute.

Has this changed from the bill published in October 2019

Yes.

Previously senior officials were able to carry out the UK's functions at the joint committee and the UK was not prevented from using the written procedure.

There was no reporting requirement on disputes.

## EU law and parliamentary sovereignty

*Clauses 5 and 36*

### What does the Withdrawal Agreement Act say?

The bill provides that the [Withdrawal Agreement](#) itself will be enforceable by the UK courts, including after the end of the transition period. This means that the courts will also enforce any rules of EU law incorporated into the [Withdrawal Agreement](#).

In addition, the bill attempts to give the Withdrawal Agreement “supremacy” over UK law, by saying that all domestic enactments have effect “subject to” the provisions which give effect to the agreement. The bill uses exactly the same language to give effect to the Withdrawal Agreement that the European Communities Act 1972 used to give effect to EU law. The most likely outcome of this is that if, in future, Parliament passed a statute inconsistent with the agreement, the courts would disapply the statute in favour of the agreement – unless Parliament explicitly told them to do the reverse.

The bill also “recognises” that Parliament is sovereign, even though some EU law and the agreement itself will have supremacy over statutes passed by Parliament. However, this “parliamentary sovereignty” clause is unlikely to have any legal effect.

### Has this changed from the bill published in October 2019

No

## Status of past ECJ judgements

*Clause 26(1)*

### What does the Withdrawal Agreement Act say?

The bill allows for ministers to make an order which specifies that other courts can depart from pre-Brexit ECJ judgments, and which specifies the circumstances in which those courts may do so.

## Has this changed from the bill published in October 2019

This is a new addition to the bill and amends the provisions in the EU Withdrawal Act 2018 which said that pre-Brexit judgments of the ECJ would continue to be binding on UK courts and only the UK Supreme Court could depart from those judgments.

### Citizens' rights

*Clause 7-17*

## What does the Withdrawal Agreement Act say?

The bill gives ministers several powers to make secondary legislation which would give effect to the citizens' rights part of the Withdrawal Agreement. In addition, the bill provides for the creation of an Independent Monitoring Authority (IMA), as required by the agreement, to monitor the government's compliance with its obligations. The budget of and public appointments to the IMA will be decided by a minister.

The bill also provides for ministers to make provisions for a statutory appeals process against government decisions on individual cases using secondary legislation.

## Has this changed from the bill published in October 2019

Very slightly.

The government now has powers to put the functions of the IMA into another public body and make changes to that public body – through secondary legislation – to ensure it can carry out those functions.

### Asylum

*Clause 37*

## What does the Withdrawal Agreement Act say?

The bill requires the government to put before Parliament a 'statement of policy' relating to future arrangements around unaccompanied children making asylum applications.

Has this changed from the bill published in October 2019

This is a new addition to the bill and amends the EU Withdrawal Act 2018 which previously required the government to seek to negotiate an agreement with the EU on unaccompanied children seeking asylum.

## Divorce bill / financial settlement

*Clause 20*

What does the Withdrawal Agreement Act say?

The bill authorises HM Treasury to make payments to the EU out of Treasury funds until March 2021.

From that point onwards, the government will need to raise money to make payments to the EU by asking Parliament for money each year, just as it has to ask Parliament for money for departmental spending.

Has this changed from the bill published in October 2019

Very slightly.

The previous version of the bill allowed the government to change the 2021 date using statutory instruments.

## Protocol on Northern Ireland

*Clause 21*

What does the Withdrawal Agreement Act say?

The [protocol on Northern Ireland](#), which replaced the “backstop” in the previous Withdrawal Agreement, provides that Northern Ireland will continue to align with some EU rules, in order to avoid a hard border on the island of Ireland.

The bill gives ministers wide powers to implement the protocol by secondary legislation.

Other than that, the bill says very little about how the protocol arrangements will be implemented.

The bill also forbids the government from agreeing anything in the EU in the future that would alter the arrangements for North–South co-operation under the Good Friday Agreement.

Has this changed from the bill published in October 2019

No

## Workers' rights

What does the Withdrawal Agreement Act say?

Not referenced

Has this changed from the bill published in October 2019

Yes.

This section has been removed. The previous version said that when a minister introduces a bill which relates to EU-derived workers' rights, he or she must either make a statement that the bill does not remove any such right, or make a statement that, even though it does, the government wants to proceed with it anyway.

## Meaningful vote

*Clause 31*

What does the Withdrawal Agreement Act say?

Currently, the government must win a vote in the House of Commons on a motion to approve its deal before ministers are allowed to ratify it. This has become known as a "[meaningful vote](#)". However, the bill would remove that requirement.

The bill would also disapply the requirement, under the Constitutional Reform and Governance Act 2010, for the ministers to lay a treaty before Parliament 21 days before they ratify it.

This means that, if the bill were to become law, the government would be allowed to ratify the Withdrawal Agreement (formally enter into the agreement on the UK's behalf) without doing anything else.

Has this changed from the bill

No change

published in October 2019

**Retained EU law**

**What does the Withdrawal Agreement Act say?**

The bill amends provisions in the [EU Withdrawal Act 2018](#) so that the 'snapshot' of EU law (and UK law implementing EU law) will be taken at the end of the implementation period, rather than on exit day.

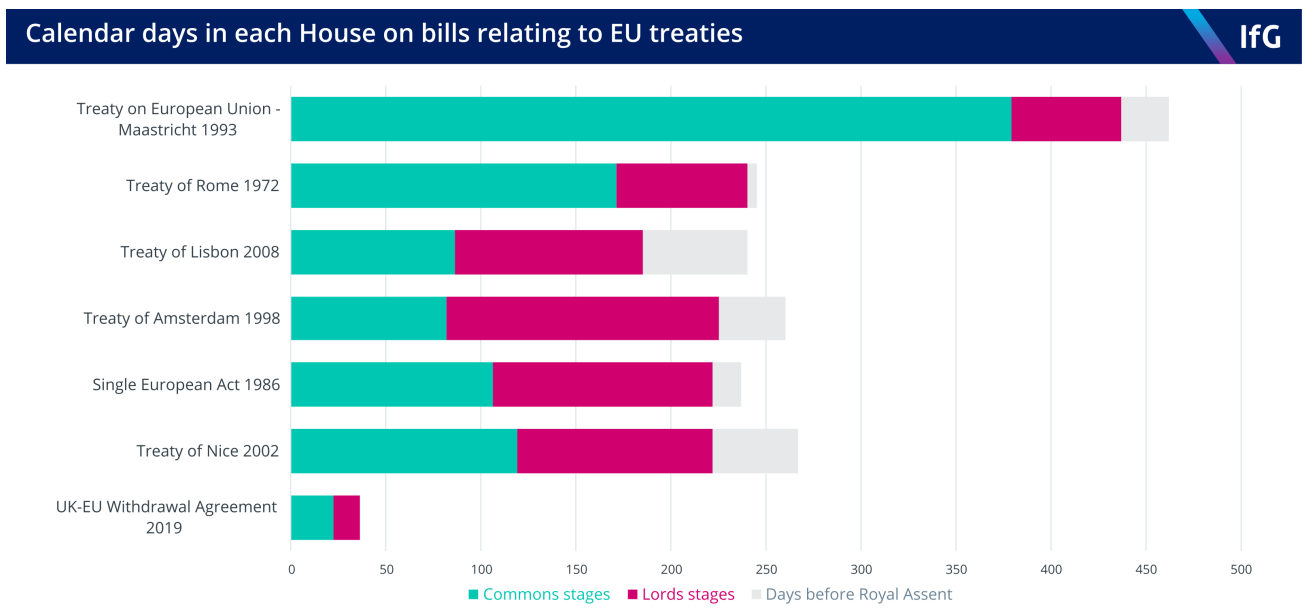
The bill also amends the Act's powers to correct deficiencies in this body of 'retained EU law' and amends the point at which this power ceases so it can continue to be used until two years after the end of the transition period (rather than exit day). These provisions will allow the government to incorporate any new EU law that comes into effect during the transition period into domestic law at the end of the transition period.

**Has this changed from the bill published in October 2019**

No change

The bill was passed [unamended](#) through both Houses of Parliament. Although the House of Lords passed five amendments, these were overturned in the House of Commons.

The bill was passed just over a month after it was introduced. This was significantly quicker than other legislation relating to EU treaties.



Source: Institute for Government analysis of House of Commons Library briefing 'EU Treaty Change' and Hansard. Changes to programming legislation were made in 1998.





## Calendar days in each House on bills relating to EU treaties (Updated: 04 Feb 2020)

**Update date:**

Thursday, July 2, 2020



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