

client alert

EU | BREXIT |

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BREXIT: UK GOVERNMENT SUBMITS DRAFT LEGISLATION TO AUTHORISE EU WITHDRAWAL TO PARLIAMENT; WHAT HAPPENS NEXT?

On 24 January 2017 the UK's Supreme Court confirmed that the UK Government needed to obtain the approval of Parliament before triggering Article 50. Accordingly, the Government today introduced to the House of Commons the draft legislation required to give the Prime Minister the requisite power. The bill is to be known as the European Union (Notification of Withdrawal) Bill.

WHAT DOES IT SAY?

The Bill is very short, having only two clauses:

1. Power to notify withdraw from the EU

(1) The Prime Minister may notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

(2) This section has effect despite any provision made by or under the European Communities Act 1972 or any other enactment.

2. Short title

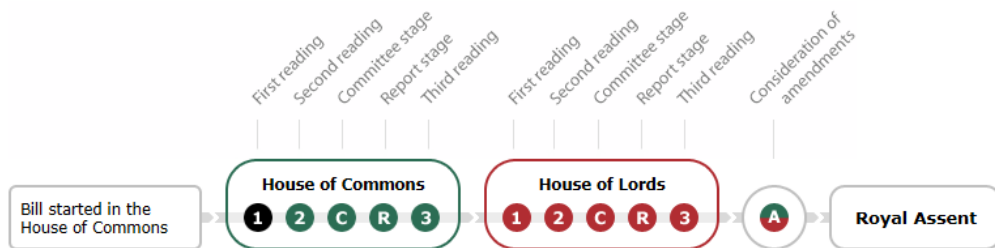
This Act may be cited as the European Union (Notification of Withdrawal) Act 2017.

The Government has indicated that it intends to ask Parliament to expedite the parliamentary progress of the Bill. They consider the fast-tracking to be necessary because the judgment of 24 January in the Miller Case required the Government to complete an additional (and unexpected) step before the formal process of leaving the European Union can commence. Completing this step through the normal Bill timetable would cause considerable delay to commencing the formal exit process making it impossible to do so before the end of March 2017, which would generate further uncertainty as to the timetable for the UK's exit from the EU. Accordingly, MPs will be asked to approve a programme motion allowing just five days for all the Commons debates on the Bill.

WHAT HAPPENS NEXT?

The diagram below sets out the usual procedure for a Bill started in the House of Commons.

Progress of the Bill



In this case the Bill was given its First Reading today; this stage is formal and takes place without any debate.

MPs will debate the Bill at Second Reading, expected to take place over Tuesday 31 January and Wednesday 1 February. Second Reading is the opportunity for MPs to debate the main principles of the Bill. The Secretary of State for Exiting the European Union, David Davis, will open the debate, and an official Opposition spokesperson, likely to be Labour Shadow Secretary of State Keir Starmer, will respond with the Opposition views on the Bill. At the end of the debate, the Commons will vote on whether the Bill should go forward to the next phase, the Committee Stage.

At Committee each clause of the Bill and any amendments may be debated, usually by a committee of MPs who can take evidence from experts and interest groups from outside Parliament. Since the Bill is being fast tracked it is more likely that the Bill will be dealt with by a Committee of the whole House, so every MP will be able to take part and vote. Committee stage is scheduled for Monday 6 and Tuesday 7 February, concluding on Wednesday 8 February 2017 when the remaining stages are also due to take place. Whether this will prove to be sufficient time for agreement to be reached remains to be seen; although the legislation is very short, the Scottish National Party (SNP) have indicated that they intend to propose fifty separate amendments.

On 9 February Parliament rises for a short recess, so the Bill would begin its passage through the Lords when Parliament returns on 20 February, after which both Houses have the opportunity to consider each other's amendments, if any, until both Houses reach agreement. The debates in both Houses are likely to be heated and lengthy and the SNP, the Liberal Democrats and a significant number of Labour MPs will vote against the Bill, but it is thought unlikely that it will not be approved, given the Referendum vote. Once the final version of the Bill is agreed it can receive Royal Assent and become an Act of Parliament. The Prime Minister will then have the authority to serve notice of withdrawal upon the EU.

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