

Brexit Begins

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After 44 years as a member, the United Kingdom (UK) is now officially on the path to leave the European Union (EU).

Article 50

On 29 March 2017, the UK triggered Article 50 of the Treaty on European Union by notifying the European Council of its intention to withdraw from the EU. This followed the referendum held in June 2016, where a majority of UK voters opted to leave the EU. As previously noted, following legal challenges in the High Court and Supreme Court, the UK Government was required to seek prior authorisation of Parliament before triggering Article 50. This was achieved earlier this month with the passing of the European Union (Notification of Withdrawal) Act 2017, all within the deadline that Prime Minister Theresa May had set late last year.

There will now follow a two year negotiating window during which the terms of the UK's exit from the EU will be discussed. It is unclear whether any "exit deal" will be reached, but regardless, the UK will no longer be a part of the EU from late March 2019, unless there is unanimous agreement to extend the period of negotiation. The UK Government has indicated its confidence in being able to achieve an exit deal within this period. However, they have repeatedly stated that "no deal" is better than a "bad deal".

The negotiation process will commence immediately, with talks to be held next month between UK and EU officials. Negotiations with other EU countries are likely to start thereafter and are expected to continue until late 2018. Any deal that is reached will be subject to approval of the UK Parliament, the European Council in Brussels and the European Parliament respectively.

Both sides have made it clear that they intend to focus on key arrangements first; with the UK proposing to begin technical talks on detailed policy areas as soon as possible, prioritising the biggest challenges such as security, how the UK will interact with the EU single market (in which it will no longer be a participant), the rights of citizens and how complex "networked industries" such as financial services will operate.

The Great Repeal Bill

On 30 March 2017, the UK Government published details of the Great Repeal Bill. This piece of legislation, which is planned to enter into force as soon as the UK leaves the EU, provides for the following:

- repeal of the European Communities Act, which states that EU law is supreme to UK law;
- the UK no longer being subject to the jurisdiction of the European Court of Justice; and
- the transposition of existing EU legislation on to the UK statute book.

At this stage, the aim of Great Repeal Act is to effectively "copy and paste" EU laws into UK law and to "ensure a functioning statute book" once the UK has left the EU, regardless of whether an

exit deal has been agreed.

The sheer volume of EU law that has accumulated in the UK over the past 4 decades - estimated at 80,000 items in 2010 - means that it will be "one of the largest legislative projects ever undertaken in the UK". Whilst certain pieces of legislation can simply be transposed, for others, that will not be possible and further work will be required. At this time, it is estimated that around 15 key pieces of legislation will be required in addition to the Great Repeal Bill to deal with the significant changes that Brexit necessitates. These include: a new UK customs regime (as this cannot be met by incorporating existing EU law into UK law); and an immigration bill, the aim of which is to ensure that nothing will change for any EU citizen, whether already resident in the UK or moving from the EU, without Parliament's approval. In addition, the Great Repeal Bill will "provide a power to correct the statute book, where necessary, to rectify problems occurring as a consequence of leaving the EU."

Overall, however, the Great Repeal Bill is intended to provide reassurance for businesses both operating in the UK and those transacting with UK companies that "the rules have not changed overnight" and that it will not make "major changes to policy" or establish "new legal frameworks in the UK beyond those which are necessary to ensure law continues to function properly from day one." In the long term, however, it is likely that changes will slowly be made to UK legislation to reflect the reality of life after Brexit.

What next?

The Great Repeal Bill will be introduced into Parliament in May or June this year and will then be subject to review by the House of Commons and the House of Lords before it can pass into UK law. It is intended that it will be passed as an Act of Parliament ahead of Brexit, but will only come into force on the day the UK leaves the EU. At the same time, the other pieces of key legislation will also undergo a similar process.

The introduction, however, of this new legislation should be a relatively straightforward process for the UK Government when compared with the terms of its exit that it will be negotiating with the EU at the same time. While the EU has now set out its strategy for these negotiations, the outcome is by no means clear. As a result, the outcome of these negotiations will be closely watched, as they will be key to determining the UK's future position on the international stage.

For more information please contact one of the lawyers listed below.