

Brexit deal: the Withdrawal Agreement ^[1]



The government has published a draft agreement on the withdrawal of the UK from the EU. The below table sets out what is included and how it differs to Theresa May’s deal. There is also an [extensive protocol on Northern Ireland](#) ^[2], which we explain separately.

Area

Implementation of the Withdrawal Agreement

<p>What does it say?</p>	<p>Article 4 says that both the agreement and any EU law applying to the UK under the agreement should have the same effect as it has in EU member states.</p> <p>This includes “direct effect”, which allows private parties to invoke their rights under the withdrawal agreement before both UK courts, as well as EU member states.</p> <p>It also gives EU law supremacy over domestic law – the courts could disapply any domestic legislation which is incompatible with EU law.</p> <p>In the March draft, this only applied to citizens’ rights. It would now apply to the entire agreement.</p>
<p>What does it mean?</p>	<p>This will be challenging both politically and legally to implement, principally down to the role of parliamentary sovereignty in the UK.</p> <p>The government of the time managed to give supremacy to EU law under the European Communities Act 1972 ^[3], but this will be a challenge for the current government when they bring forward the EU Withdrawal Agreement Bill needed to implement the agreement in domestic law.</p>
<p>What has changed from Theresa May's deal?</p>	<p>Nothing has changed</p>

Transition

<p>What does it</p>	<p>The UK will continue to apply the entire body of EU law during the transition, but it will be outside of the EU's political institutions.</p> <p>The UK will continue to apply EU trade policy and any trade agreements signed by the UK will not be able to enter into force until the transition ends. The EU will write to third countries with which it has agreements to request the UK continues to benefit from these during the period.</p> <p>In addition to the continuation of the UK’s economic relationship with the EU, all elements of justice, home affairs, foreign and defence policies will continue. If agreement is reached on the future relationship in foreign, defence and security policy, this can come into effect</p>
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say? before the end of the transition period and EU law will no longer apply in this area in the UK.

The transition will end on 31 December 2020. But the two sides may extend the transition once for up to two years. To trigger this extension, the two sides must agree to do so by 1 July 2020.

An extension of the transition would require the two sides to agree a new financial settlement. An additional provision specifies that in case the transition is extended, the UK will still be required to make a financial contribution, but it will be treated as a third country rather than a member state for the purposes of the EU budget. Its share will be decided by the [joint committee](#) ^[4] rather than through the usual Multiannual Funding Framework mechanism.

What does it mean?

During transition, the UK would continue to be subject to all EU rules but also enjoy all rights of a member state except involvement in EU institutions.

Extension would allow the UK to avoid activating the Irish protocol in January 2021.

The UK and EU would need to agree the UK's financial contribution for the extension if they decide to extend the transition.

What has changed from Theresa May's deal?

Nothing has changed

Institutional provisions

What does it say?

A joint committee will oversee the agreement, composed of representatives from – and co-chaired by – the EU and the UK. It will meet at least once a year or at the request of one of the two parties.

It will be able to adopt decisions amending certain parts of the Withdrawal Agreement. These decisions will be binding and the EU and the UK will need to implement them.

Specialised committees will be established on each of the key separation issues.

What does it mean?

This gives the UK and the EU an equal role in overseeing the application of the agreement. It is not clear who will represent them in the joint committee or how often it will need to meet.

What has changed from Theresa May's deal?

Nothing has changed

Dispute settlement

What does it

The UK and EU will first try to resolve disputes via the joint committee where they will try to agree a solution.

If the committee cannot agree, then either the EU or the UK can request an arbitration panel. The EU and the UK will each nominate two members to the panel and agree a chair. If a party does not comply with a ruling, then it can impose a financial penalty. Moreover, parts of the

say? agreement could also be suspended (except the part relating to citizens' rights), although this should be temporary.

If a dispute relates to the interpretation of EU law, or whether the UK has complied with European Court of Justice (ECJ) judgements made before the end of transition, then the ECJ will have jurisdiction. This ruling will be binding on the arbitration panel.

What does it mean?

The agreement has settled on a political resolution, then arbitration process rather than the establishment of a court (and this will form the basis of the dispute resolution process for the future framework).

The proposed role for the European Court of Justice (ECJ) in the withdrawal agreement reflects the ECJ's position ^[4] that only the ECJ can bind certain interpretations of EU law and concepts.

What has changed from Theresa May's deal?

Nothing has changed

Geographical indications

What does it say?

More than 3,000 geographical indications, such as Parma ham, Champagne and Welsh lamb, are currently protected under EU law.

The agreement guarantees that they will continue to be protected, with the UK agreeing to apply the same level of protection through its domestic law as the EU provides now.

Geographical indications are names used to define both the origin and the quality, characteristics or reputation of products. It often applies to food and drink.

What does it mean?

The UK will have to set up its own list of geographical indications in domestic legislation that will recognise the EU's.

This applies "unless and until" superceded by the long-term trading relationship – recognising geographical indications are usually a key demand of the EU in trade agreements.

What has changed from Theresa May's deal?

Nothing has changed

Gibraltar

What does it say?

Spain and the UK have agreed a bilateral protocol on citizens' rights, particularly frontier workers; air transport; fiscal and financial matters; environment protection and fishing; and police and customs co-ordination.

Spain and the UK will co-ordinate bilaterally, while the EU Commission will be invited to participate in police and customs matters. EU air transport law will be updated during the transition period if both Spain and the UK agree.

These provisions, except those on citizens' rights, cease to apply by the end of the transition period.

What does it mean?

The UK and Spain are both responsible for ensuring that citizens' rights established by the Withdrawal Agreement are protected.

EU aviation law, which doesn't apply now to Gibraltar International Airport, can only be applied during the transition if both the UK and Spain agree.

What has changed from Theresa May's deal?

Nothing has changed

Cyprus

What does it say?

The Protocol on the Sovereign Base Areas in Cyprus aims to preserve the current, unique situation. The Sovereign Base Areas will remain part of the Union's custom territory and be bound by EU law with respect to indirect taxation, regulation of agriculture, goods and data. The UK will continue to pass domestic legislation but will entrust responsibility to the Republic of Cyprus for implementation and enforcement, responsible to the EU.

A specialised committee will facilitate the Protocol's implementation, and the joint committee will amend references to EU law upon its recommendation. The ECJ will supervise and have jurisdiction.

What does it mean?

The Sovereign Base Areas will be considered part of the EU's customs territory, align with agricultural standards and the Republic of Cyprus' VAT and excise regime after the transition period.

The Republic of Cyprus will have responsibility for implementation and enforcement in most areas covered, those most important to the EU, but not security and defence.

What has changed from Theresa May's deal?

Nothing has changed

Citizens' rights

What does it say?

Protects the rights of UK citizens living in the EU and EU citizens living in the UK, as well as their family members, to continue to live and work there (unless they leave for longer than five years). This applies to citizens who move to the UK or the EU during the transition period.

They may need to apply for a residence status, in accordance with each country's law. EU citizens in UK do need to apply through the EU Settlement Scheme.

These citizens will be able to apply for permanent residence (called 'settled status' in the UK) if they have been living in that country for five years continuously.

This will be overseen by the Independent Monitoring Authority in the UK, which will report to the institutions overseeing the Withdrawal Agreement. The European Commission will monitor compliance in member states.

UK and EU citizens will continue to be able to live and work in the EU and UK respectively – unless they leave for over five years.

What does it mean?

In the UK, EU citizens will need to apply for 'settled status' to ensure they can access these rights.

The UK government will need to establish a new body to oversee the application of the agreement and ensure EU citizens' rights in the UK continue to be protected.

What has changed from Theresa May's deal?

Nothing has changed

Financial settlement

What does it say?

The UK will honour the financial commitments it made as a member state. This includes its contribution to the EU budget, where it will receive its rebate.

UK beneficiaries of EU programmes will continue to participate until they end.

What does it mean?

As a member state, the UK agreed the previous multiannual financial framework and to pay for certain EU programmes - the UK has agreed to continue to make these payments.

What has changed from Theresa May's deal?

Nothing has changed

Area	What does it say?	What does it mean?	What has changed from Theresa May's deal?
Implementation of the Withdrawal Agreement	<p>Article 4 says that both the agreement and any EU law applying to the UK under the agreement should have the same effect as it has in EU member states.</p> <p>This includes "direct effect", which allows private parties to invoke their rights under the withdrawal agreement before both UK courts, as well as EU member states.</p> <p>It also gives EU law supremacy over domestic law - the courts could disapply any domestic legislation which is incompatible with EU law.</p>	<p>This will be challenging both politically and legally to implement, principally down to the role of parliamentary sovereignty in the UK.</p> <p>The government of the time managed to give supremacy to EU law under the European Communities Act 1972 ^[3], but this will be a challenge for the current government when they bring forward the EU Withdrawal Agreement Bill needed to implement the agreement in domestic law.</p>	Nothing has changed

Area	What does it say? <small>In the March draft, this only applied to citizens' rights. It would now apply to the entire agreement.</small>	What does it mean?	What has changed from Theresa May's deal?
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	<p>The UK will continue to apply the entire body of EU law during the transition, but it will be outside of the EU's political institutions.</p> <p>The UK will continue to apply EU trade policy and any trade agreements signed by the UK will not be able to enter into force until the transition ends. The EU will write to third countries with which it has agreements to request the UK continues to benefit from these during the period.</p> <p>In addition to the continuation of the UK's economic relationship with the EU, all elements of justice, home affairs, foreign and defence policies will continue. If agreement is reached on the future relationship in foreign, defence and security policy, this can come into effect</p>	<p>During transition, the UK would continue to be subject to all EU rules but also enjoy all rights of a member state except involvement in EU institutions.</p>	
Transition	<p>before the end of the transition period and EU law will no longer apply in this area in the UK.</p> <p>The transition will end on 31 December 2020. But the two sides may extend the transition once for up to two years. To trigger this extension, the two sides must agree to do so by 1 July 2020.</p> <p>An extension of the transition would require the two sides to agree a new financial settlement. An additional provision specifies that in case the transition is extended, the UK will still be required to make a financial contribution, but it will be treated as a third country rather than a member state for the purposes of the EU budget. Its share will be decided by the <u>joint committee</u> ^[4] rather than through the usual Multiannual Funding</p>	<p>Extension would allow the UK to avoid activating the Irish protocol in January 2021.</p> <p>The UK and EU would need to agree the UK's financial contribution for the extension if they decide to extend the transition.</p>	Nothing has changed

Area	What does it say?	What does it mean?	What has changed from Theresa May's deal?
Institutional provisions	<p>oversee the agreement, composed of representatives from – and co-chaired by – the EU and the UK. It will meet at least once a year or at the request of one of the two parties.</p>	<p>This gives the UK and the EU an equal role in overseeing the application of the agreement. It is not clear who will represent them in the joint committee or how often it will need to meet.</p>	Nothing has changed
	<p>It will be able to adopt decisions amending certain parts of the Withdrawal Agreement. These decisions will be binding and the EU and the UK will need to implement them.</p>		
	<p>Specialised committees will be established on each of the key separation issues.</p>		
	<p>The UK and EU will first try to resolve disputes via the joint committee where they will try to agree a solution.</p>		
Dispute settlement	<p>If the committee cannot agree, then either the EU or the UK can request an arbitration panel. The EU and the UK will each nominate two members to the panel and agree a chair. If a party does not comply with a ruling, then it can impose a financial penalty. Moreover, parts of the agreement could also be suspended (except the part relating to citizens' rights), although this should be temporary.</p>	<p>The agreement has settled on a political resolution, then arbitration process rather than the establishment of a court (and this will form the basis of the dispute resolution process for the future framework).</p>	Nothing has changed
	<p>If a dispute relates to the interpretation of EU law, or whether the UK has complied with European Court of Justice (ECJ) judgements made before the end of transition, then the ECJ will have jurisdiction. This ruling will be binding on the arbitration panel.</p>	<p>The proposed role for the European Court of Justice (ECJ) in the withdrawal agreement <u>reflects the ECJ's position</u> ^[4] that only the ECJ can bind certain interpretations of EU law and concepts.</p>	
	<p>More than 3,000 geographical indications, such as Parma ham, Champagne and Welsh lamb, are currently</p>	<p>Geographical indications are names used to define both the origin and the quality, characteristics or reputation of products. It often applies to food and drink.</p> <p>The UK will have to set up its</p>	

Geographical indications Area	What does it say?	What does it mean?	What has changed from Theresa May's deal?
	<p>protected under EU law. The agreement guarantees that they will continue to be protected, with the UK agreeing to apply the same level of protection through its domestic law as the EU provides now.</p>	<p>own list of geographical indications in domestic legislation that will recognise the EU's. This applies "unless and until" superceded by the long-term trading relationship - recognising geographical indications are usually a key demand of the EU in trade agreements.</p>	<p>Nothing has changed</p>
Gibraltar	<p>Spain and the UK have agreed a bilateral protocol on citizens' rights, particularly frontier workers; air transport; fiscal and financial matters; environment protection and fishing; and police and customs co-ordination.</p> <p>Spain and the UK will co-ordinate bilaterally, while the EU Commission will be invited to participate in police and customs matters. EU air transport law will be updated during the transition period if both Spain and the UK agree.</p> <p>These provisions, except those on citizens' rights, cease to apply by the end of the transition period.</p>	<p>The UK and Spain are both responsible for ensuring that citizens' rights established by the Withdrawal Agreement are protected.</p> <p>EU aviation law, which doesn't apply now to Gibraltar International Airport, can only be applied during the transition if both the UK and Spain agree.</p>	<p>Nothing has changed</p>
Cyprus	<p>The Protocol on the Sovereign Base Areas in Cyprus aims to preserve the current, unique situation. The Sovereign Base Areas will remain part of the Union's custom territory and be bound by EU law with respect to indirect taxation, regulation of agriculture, goods and data. The UK will continue to pass domestic legislation but will entrust responsibility to the Republic of Cyprus for implementation and enforcement, responsible to the EU.</p> <p>A specialised committee will facilitate the Protocol's implementation, and the joint committee will amend references to EU law upon its recommendation. The ECJ will supervise and have jurisdiction.</p>	<p>The Sovereign Base Areas will be considered part of the EU's customs territory, align with agricultural standards and the Republic of Cyprus' VAT and excise regime after the transition period.</p> <p>The Republic of Cyprus will have responsibility for implementation and enforcement in most areas covered, those most important to the EU, but not security and defence.</p>	<p>Nothing has changed</p>

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Citizens' rights	<p>Protects the rights of UK citizens living in the EU and EU citizens living in the UK, as well as their family members, to continue to live and work there (unless they leave for longer than five years). This applies to citizens who move to the UK or the EU during the transition period.</p> <p>They may need to apply for a residence status, in accordance with each country's law. EU citizens in UK do need to apply through the EU Settlement Scheme.</p> <p>These citizens will be able to apply for permanent residence (called 'settled status' in the UK) if they have been living in that country for five years continuously.</p> <p>This will be overseen by the Independent Monitoring Authority in the UK, which will report to the institutions overseeing the Withdrawal Agreement. The European Commission will monitor compliance in member states.</p>	<p>UK and EU citizens will continue to be able to live and work in the EU and UK respectively - unless they leave for over five years.</p> <p>In the UK, EU citizens will need to apply for 'settled status' to ensure they can access these rights.</p> <p>The UK government will need to establish a new body to oversee the application of the agreement and ensure EU citizens' rights in the UK continue to be protected.</p>	<p>Nothing has changed</p>
Financial settlement	<p>The UK will honour the financial commitments it made as a member state. This includes its contribution to the EU budget, where it will receive its rebate.</p> <p>UK beneficiaries of EU programmes will continue to participate until they end.</p>	<p>As a member state, the UK agreed the previous multiannual financial framework and to pay for certain EU programmes - the UK has agreed to continue to make these payments.</p>	<p>Nothing has changed</p>

Update date:

Thursday, October 17, 2019

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