

European Union (Revocation of Notification of Withdrawal) (No. 3) Bill

EXPLANATORY NOTES

Object of Bill

1. The object of this Bill is to prevent a no-deal Brexit. It provides for the revocation, in certain circumstances, of the United Kingdom's notification under Article 50(2) of the Treaty on European Union ("TEU") of the U.K.'s intention to withdraw from the European Union.
2. If this Bill were passed, a number of amendments and repeals or revocations would become necessary to other primary and secondary legislation. This Bill does not make those changes.

Clause 1

3. *Subsection (1)* provides the trigger for the revocation of the U.K.'s Article 50 notification. It is based on the key concept for the Bill of "the relevant time".
4. "The relevant time" is defined in *subsection (3)*. It is the time when the TEU and the Treaty on the Functioning of the European Union ("the Treaties") would cease to apply to the U.K. if no withdrawal agreement between the U.K. and the EU had entered into force—in other words, the time when the U.K. would leave the EU in the absence of a withdrawal agreement. Article 50(3) of the TEU provides that this is to be upon the expiry of 2 years from the giving of the U.K.'s notification under Article 50(2), or the expiry of any extended period. The period has in fact been extended twice, most recently to 11.00 p.m. (U.K. time) on either 31 October 2019 or sooner, depending on the circumstances¹; and it could in theory be extended again. If a withdrawal agreement does enter into force before 11.00 p.m. on whatever the applicable deadline date is, the Treaties will cease to apply to the U.K. at that earlier point.
5. The Bill therefore provides in *subsection (1)* that if no withdrawal agreement has entered into force by 24 hours *before* the relevant time, and no withdrawal agreement is due to enter into force by the end of those 24 hours either, then *subsection (2)* becomes applicable.
6. *Subsection (2)*, if it becomes applicable, requires the Prime Minister to notify the European Council that the U.K.'s earlier notification of its intention to withdraw from the EU is revoked. The Prime Minister must give this notification before it is too late: i.e. before the "relevant time". This is because any notification of revocation given after that time would be ineffective. In other words, the Prime Minister must give this notification within the 24 hours immediately after the duty to give it arises. However, the Bill will also work if there is

¹ European Council Decision (EU) 2019/584 of 11 April 2019 (OJ No. L 101, 11.04.2019, p.1).

a further extension to the deadline, as the definition of “the relevant time” automatically takes such an extension into account.

7. In terms of the U.K.’s domestic law, the definition of “exit day” for the purposes of the European Union (Withdrawal) Act 2018 should mirror “the relevant time” for the purposes of this Bill. However, the definition of “exit day” in that Act could theoretically become different from “the relevant time”, if an extension of the period referred to in Article 50(3) of the TEU were not reflected (or not reflected in time) in the U.K.’s definition of “exit day”.² It is for that reason that the Bill uses the terminology of the TEU.

Clause 2

8. Clause 2 provides for the Bill to come into force on the day of its passing, and for it to extend to the whole of the U.K.

² Such a change requires the making of a Statutory Instrument.