



EXPLANATORY NOTES

European Union (Notification of Withdrawal) Act 2017

Chapter 9

£6.00

EUROPEAN UNION (NOTIFICATION OF WITHDRAWAL) ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the European Union (Notification of Withdrawal) Act 2017 (c. 9) which received Royal Assent on 16th March 2017.

- These Explanatory Notes have been prepared by the Department for Exiting the European Union in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The European Union (Notification of Withdrawal) Act 2017 (“the Act”) has 2 sections. A summary of, and background to, the Act is provided below.
- 2 The Act gives the Prime Minister the power to notify the European Council of the United Kingdom’s intention to withdraw from the European Union.

Policy background

- 3 The European Union Referendum Act 2015 (section 1) provided for the question of whether the United Kingdom should remain a member of the European Union or leave the European Union to be put to a referendum. That referendum took place on 23 June 2016. A majority of those who voted in the referendum voted in favour of the United Kingdom leaving the European Union.
- 4 On 2 October 2016 the Prime Minister announced that the Government would commence the formal process of leaving the European Union before the end of March 2017.

Legal background

- 5 The procedure for withdrawing from the European Union is set out in Article 50 of the Treaty on European Union (“TEU”). The first step in the procedure is for the Member State that has decided to withdraw to notify the European Council of its intention (Article 50(2)).
- 6 In *R (on the application of Miller and Dos Santos) v Secretary of State for Exiting the European Union* [2017] UKSC 5 the Supreme Court considered whether it would be inconsistent with the terms of the European Communities Act 1972 for the Prime Minister to give notice to the European Union, under Article 50(2) of the Treaty of the European Union, of the United Kingdom’s intention to withdraw from the EU Treaties, without a prior Act of Parliament. In an 8-3 judgment the Supreme Court concluded that a prior Act of Parliament is required. This Act provides the Prime Minister with the necessary power to give notice of withdrawal under Article 50(2).
- 7 The Supreme Court also considered arguments relating to the devolution acts and whether consent of the devolved administrations is required before notice to withdraw can be served. The unanimous decision of the court was that EU and other foreign affairs matters are reserved to the UK Government and Parliament and that the devolved legislatures do not have a veto on the UK’s decision to withdraw from the EU.

Territorial extent and application

- 8 This Act extends, and applies in relation to, England, Wales, Scotland and Northern Ireland.

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Commentary on provisions of Act

Section 1: Power to notify withdrawal

- 9 Section 1(1) provides power for the Prime Minister to notify the European Council of the United Kingdom's intention to withdraw from the European Union.
- 10 The power that is provided by section 1(1) applies to withdrawal from the EU. This includes the European Atomic Energy Community ('Euratom'), as the European Union (Amendment) Act 2008 sets out that the term "EU" includes (as the context permits or requires) Euratom (section 3(2)).
- 11 Section 1(2) provides that the powers in section 1(1) are conferred regardless of any restrictions which may arise from any other legislation, including the European Communities Act 1972.

Section 2: Short title

- 12 Section 2 confirms the short title of the Act.

Commencement

13 This Act came into force following Royal Assent on 16th March 2017.

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Annex A: Hansard References

14. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	26 January 2017	Vol. [620] Col. [473]
Second Reading (1st Session)	31 January 2017	Vol. [620] Col. [818]
Second Reading (2nd Session)	1 February 2017	Vol. [620] Col. [1030]
Committee of the Whole House (1st Session)	6 February 2017	Vol. [621] Col. [49]
Committee of the Whole House (2nd Session)	7 February 2017	Vol. [621] Col. [260]
Committee of the Whole House (3rd Session)	8 February 2017	Vol. [621] Col. [433]
Third Reading	8 February 2017	Vol. [621] Col. [566]
<i>House of Lords</i>		
Introduction	8 February 2017	Vol. [778] Col. [1848]
Second Reading (1st Session)	20 February 2017	Vol. [779] Col. [12]
Second Reading (2nd Session)	21 February 2017	Vol. [779] Col. [149]
Second Reading (3rd Session)	21 February 2017	Vol. [779] Col. [203]
Committee of the Whole House (1st Session)	27 February 2017	Vol. [779] Col. [578]
Committee of the Whole House (2nd Session)	1 March 2017	Vol. [779] Col. [813]
Report (1st Session)	7 March 2017	Vol. [779] Col. [1203]
Report (2nd Session)	7 March 2017	Vol. [779] Col. [1250]
Third Reading	7 March 2017	Vol. [779] Col. [1339]
Commons Consideration of Lords Amendments	13 March 2017	Vol. [623] Col. [38]
Lords Consideration of Commons Reasons	13 March 2017	Vol. [779] Col. [1709]
Royal Assent	16 March 2017	House of Commons Vol. [540] Col. [623] House of Lords Vol. [779] Col. [1949]

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