

European Union (Withdrawal) (No. 5) Bill: Commons Stages

This briefing covers the House of Commons stages of the [European Union \(Withdrawal\) \(No. 5\) Bill](#). It may be of assistance to Members in the event that the bill is considered in the House of Lords on 4 April 2019. The House of Lords order paper for 4 April 2019 notes that it is expected that the second reading and remaining stages of the bill will be taken on this date if the following motion is agreed to:

Baroness Hayter of Kentish Town to move, further to the resolution of the House of 28 January that Her Majesty's Government should provide sufficient time for this House to ensure the timely passage of legislation necessary to implement any deal or proposition that has commanded the support of the majority of the House of Commons, that:

(1) Standing Order 46 (*No two stages of a Bill to be taken on one day*) to be dispensed with to allow the European Union (Withdrawal) (No. 5) Bill to be taken through all its stages this day; and

(2) Standing Order 39 (*Order of Business*) be dispensed with to enable that Bill to be considered after the motions on Economic Affairs Committee reports in the name of Lord Forsyth of Drumlean.

A number of Members have tabled amendments to Baroness Hayter's motion that, if agreed to, would prevent the standing orders being dispensed with as envisaged in Baroness Hayter's motion. For full details of these amendments, see the House of Lords [Order Paper](#) for 4 April 2019.

Copies of the materials are available for collection from the Library.

Background

The bill is a House of Commons private member's bill sponsored in the House of Commons by Yvette Cooper (Labour MP for Normanton, Pontefract and Castleford). It had its second reading and remaining stages in the House of Commons in one day on 3 April 2019. This followed a business of the House motion moved by Oliver Letwin (Conservative MP for West Dorset), passed by 312 votes to 311, a majority of one. The motion also included provisions that would allow further parliamentary time in the Commons for the consideration of Lords amendments and messages on the bill.

Yvette Cooper said that she and colleagues had "put forward this cross-party bill to avert no deal on 12 April".¹ Amongst its provisions, the Bill would require the Prime Minister to move a motion of the following form in the House of Commons the day after the Act received royal assent:

"That this House agrees for the purposes of section 1 of the European Union (Withdrawal) Act 2019 to the Prime Minister seeking an extension of the period specified in Article 50(3) of the Treaty on European Union to a period ending on [...]"²

The motion would include in the square brackets a date selected by the Prime Minister but the motion would be subject to amendment by the Commons. The Prime Minister would be required to seek an extension to the date in the motion as agreed by the Commons. Should the European Council propose an alternative date, the bill would provide that a further motion be moved by the Prime Minister for agreement or amendment by the Commons.

Further background to the bill and coverage of its provisions is given in the House of Commons Library briefing [European Union \(Withdrawal\) \(No. 5\) Bill 2017–19](#) produced prior to its second reading in the Commons.

Second Reading

The bill passed its second reading in the House of Commons by 315 votes to 310, a majority of five.³ The Speaker of the House of Commons ruled that it was not necessary to seek Queen's consent to the bill and that no ways and means resolution or money resolution was required.⁴

Committee Stage

The committee stage was taken in committee of the whole House. Three amendments were made to the bill without division. Two of these were drafting amendments moved by Yvette Cooper:

- Amendment 13 corrected a reference in clause 1(2) of the bill so that it now reads “for the purposes of section 1” rather than the “for the purposes of section 2”.
- Amendment 14 clarified that the “2018 Act” referred to in clause 2 of the bill (which is now clause 3 in the Lords version of the bill) is a reference to the European Union (Withdrawal) Act 2018.

The third amendment agreed to at committee stage was new clause 13 moved by the Government, which made changes to the procedure for amending the date of exit day in domestic law. Section 20 of the European Union (Withdrawal) Act 2018 sets the date of the UK's exit day from the EU in domestic law, and also contains provision for the date to be changed by secondary legislation to ensure that the definition used in domestic law matches the date on which the EU Treaties cease to apply to the UK. Paragraph 14 of schedule 7 of the 2018 Act provided that regulations to change the date of exit day “may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament”. This is known as the affirmative procedure. This procedure was followed to change the date of exit day in domestic law following the UK's agreement with the EU to extend the article 50 period beyond 29 March 2019. For further information, see:

- House of Lords Library, [Extending Article 50: European Union \(Withdrawal\) Act 2018 \(Exit Day\) \(Amendment\) Regulations 2019](#), 26 March 2019
- House of Commons Library, [‘EU ‘Exit Day’ is Changed in UK Law’](#), 28 March 2019
- House of Lords Library, [Brexit and Delegated Legislation](#), 29 March 2019

The Government's new clause changes the procedure for making any further regulations amending the date of exit day in domestic law, so that they would be made by the negative procedure rather than the affirmative procedure. Under the affirmative procedure, regulations cannot be made without the approval of both Houses of Parliament. Under the negative procedure, regulations could be made and

come into force immediately, subject to annulment by either House.

Robin Walker, Parliamentary Under Secretary of State for Exiting the European Union, said that the Government opposed the bill, but was moving amendments as it had “no choice but to improve the bill and limit its most damaging effects”.⁵ He explained that the current position is that exit day is 12 April 2019 in international and domestic law. In his view, the bill “creates a real risk that we could be timed out and be unable to agree an extension with our European partners and implement it in domestic law”. He explained that “the reason why we are seeking this change of moving from the affirmative to the negative procedure [...] is simply to provide the speed that I think this House would want in the context of a deal having been agreed”. He argued that it was “prudent that we are able to make the SI [statutory instrument] under the negative procedure to ensure that our statute book reflects what is agreed in international law”.⁶ The Government’s new clause was added to the bill without division. It is now clause 2 in the Lords version of the bill.

Several other amendments and new clauses (including a second government amendment) were defeated on division at committee stage, as summarised in the table below:

Mover	Amendment Number	Description	Result
George Eustice (Conservative MP for Camborne and Redruth)	21	To remove subsections 1(6) and 1(7) from the bill.	Ayes: 304 Noes: 313 <i>Defeated by a majority of 9</i>
Government	22	Member’s explanatory statement: “This amendment ensures that the bill does not limit the powers that a Minister of the Crown would otherwise have to seek, or agree to, an extension of the article 50(3) period”.	Ayes: 220 Noes: 400 <i>Defeated by a majority of 180</i>
Anne Main (Conservative MP for St Albans)	1	To add a new subsection at the end of clause 1 specifying: “But the Prime Minister may not agree to any extension of the article 50 period proposed by the European Council which is later than 22 May 2019”.	Ayes: 123 Noes: 488 <i>Defeated by a majority of 365</i>
Sir William Cash (Conservative MP for Stone)	New clause 4	Member’s explanatory statement: “This new clause would prevent further amendments to standing orders etc”.	Ayes: 105 Noes: 509 <i>Defeated by a majority of 404</i>

Report Stage

The Chairman of Ways and Means reported that the committee had gone through the bill and made amendments. There was no further debate at this stage.

Third Reading

There was no further debate at third reading. The bill received its third reading by 313 votes to 312, a majority of one.⁷

Key Information

- [European Union \(Withdrawal\) \(No. 5\) Bill, HL Bill 172 of session 2017–19](#)

Lords version of the bill, reflecting the amendments made during the Commons report stage on 3 April 2019.

- House of Commons Library, [European Union \(Withdrawal\) \(No. 5\) Bill 2017–19](#), 2 April 2019

Briefing written by the House of Commons Library on the bill prior to its second reading in the Commons.

- [Debate on ‘European Union \(Withdrawal\) \(No. 5\) Bill: Second Reading’](#), HC Hansard, 3 April 2019, cols 1128–51; and [Debate on ‘European Union \(Withdrawal\) \(No. 5\) Bill: Considered in Committee’](#), HC Hansard, 3 April 2019, cols 1152–218

Commons stages on the bill.

Further Information

- [Debate on ‘Business of the House’](#), HC Hansard, 3 April 2019, cols 1058–127 (debate on Sir Oliver Letwin’s motion to enable parliamentary time for Commons consideration of the bill)

¹ [HC Hansard, 3 April 2019, col 1131.](#)

² European Union (Withdrawal) (No. 5) Bill, clause 1(2).

³ [HC Hansard, 3 April 2019, cols 1147–51.](#)

⁴ *ibid*, cols 1130–1.

⁵ [HC Hansard, 3 April 2019, col 1189.](#)

⁶ *ibid*, col 1190.

⁷ *ibid*, cols 1213–16.

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