

Committee(s)	Dated:
Public Relations & Economic Development Sub-Committee	26 February 2018
Subject: European Union (Withdrawal) Bill	Public
Report of: City Remembrancer	For Information
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Summary

This report is intended to inform Members of the parliamentary proceedings on the European Union (Withdrawal) Bill and activity being undertaken to highlight issues of importance to the City.

Through Bob Neill MP, Chair of the Justice Select Committee, a number of amendments were tabled for consideration during the Commons Committee stage of the Bill and a new Clause was tabled at Report Stage. Briefing was provided to MPs and Peers for the Second Reading of the Bill in the Commons (and latterly, Second Reading in the Lords) on matters of significance to the City. It is anticipated that the City Corporation will continue to be active during the remaining parliamentary stages of the Bill.

Recommendation

Members are asked to note this report and the steps being taken to contribute to parliamentary consideration of the Bill.

Main Report

Background

1. The European Union (Withdrawal) Bill was introduced by the Government in July 2017. It passed through the House of Commons stages by mid-January and received its Second Reading in the House of Lords on 1st February. The Bill will convert existing EU law into British law and repeal the European Communities Act 1972. It will also allow Ministers to make changes to the EU law which is converted “retained EU law” to make it “operate effectively” through regulations subject to only limited parliamentary scrutiny. This aspect of the measure has attracted particular criticism in Parliament on the basis that it gives Ministers “Henry VIII” powers.
2. The Bill was approved at Second Reading in the Commons by 326 votes to 290. Committee stage in the Commons took place over 8 days on the floor of the House (rather than before a committee) in recognition of its constitutional

importance. Just under 500 amendments were tabled, but there was only one Government defeat, on an amendment tabled by former Attorney General Dominic Grieve. The amendment, passed by 309 votes to 305, requires UK withdrawal from the EU to be subject to a vote by Parliament on the final terms of the withdrawal.

3. In response to the debates in Committee, the Government brought forward a number of amendments at Report Stage to limit Ministers' ability to amend EU rules and regulations (see further below). The Bill was approved at Commons Third Reading by 29 votes. Following a 2 day debate, the Bill was given a Second Reading in the Lords and now proceeds to its Committee stage.

City Corporation activity

4. During the Bill's Commons Committee Stage, the Remembrancer's Office worked closely with Bob Neill, Chair of the Justice Select Committee, on ten amendments to the Bill. All but one of these amendments were informed by the work of the International Regulatory Strategy Group (jointly sponsored by the City Corporation and TheCityUK) and the Financial Markets Law Committee, a forum of practitioners with a secretariat based in, but independent of, the Bank of England. The remaining amendment concerned inspection of imported food for which the Corporation, as port health authority for London, is responsible.
5. The 'City financial' amendments were not designed to rerun the Brexit debate or to force parliamentary votes, but to improve the legislation and address issues arising of concern to the Corporation and the wider City. Some were aimed at getting clarity on specific questions, such as the interpretation of legal contracts which currently refer to EU law, and use of official EU materials to aid interpretation of the domesticated EU law post-Brexit. Others sought commitments for the future, for example, requiring consultation with the financial sector before regulations dealing with City issues are amended and ensuring that the modifying powers created by the Bill do not enable arbitrary restrictions to be placed on the rights of EU nationals and businesses in the UK. One of the amendments called on the Government to report before exit day on its progress in securing post-Brexit mutual market access for financial and professional services.
6. All the amendments were selected for debate. The Government's response indicated an openness to dialogue, and issues that were the subject of two of the amendments (on the use of official EU materials to aid interpretation of the domesticated EU law post-Brexit and cost recovery for inspection of foodstuffs carried out by the City as port health authority post-Brexit) were resolved. Discussion on a third amendment debated in Committee on the interpretation of commercial contracts is ongoing.
7. During Report stage in the Commons (during which a new Clause on interpretation was tabled through Bob Neill), the Government made some further concessions. For example, the power given by the Bill to Ministers to use statutory instruments to amend primary and secondary legislation to ensure that UK law continues to operate effectively after exit day, has been amended to set

out the complete list of the kinds of deficiencies that Ministers would be able to correct. The Bill has also been amended to introduce an exception to Schedule 1 to the Bill. This Schedule states that no legal challenges can be brought to domestic legislation on the basis of a failure to comply with the general principles of EU law. Legal challenges will now be possible on this basis if they relate to anything that happened before “exit day” and, in the case of primary legislation, begin within three months of “exit day”.

8. In addition to the amendments proposed by the City Corporation noted above, briefing material was supplied to MPs and Peers in advance of the Second Reading debates. The briefing focused on the concerns of the financial and professional services sector, including legal services and also port health (in the Commons), the arts sector and immigration, following the established City Corporation lines, in addition to technical issues relating to the domestication of EU law. Comments were made by MPs and Peers in the course of the debates reflecting the concerns expressed.

Future stages

9. The Lords are expected to conclude their consideration of the Bill by May, following which the Bill will be remitted to the Commons. If this timetable is adhered to, the Bill should receive Royal Assent by the summer recess. This would allow seven months for the secondary legislation required to be put in place before “exit day”. The Government does not, however, have the same control over timetabling in the Lords as it does in the Commons.
10. The form of engagement during Committee and subsequent stages in the Lords is now being worked on. The reports commissioned by the International Regulatory Strategy Group, and discussion with their authors and the Economic Development Office, provide the basis for this work. The overall objective of any action is to promote consistency, clarity and continuity for the various sectors of relevance to the City, to minimise the cost businesses will face in the context of EU withdrawal, and to seek to ensure that the legislation enables effective delivery of the necessary changes consistent with the City Corporation’s agreed policy lines.

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