

Holst, newsletter



Brexit – Background and Procedure

Britain has been a member of the European Union since the first enlargement in 1973. In a referendum held on 23 June 2016, however, a majority of Britons voted to leave the European Union. Nothing much happened until UK Prime Minister Theresa May triggered Article 50 of the Treaty on the European Union in March 2017, initiating negotiations on the terms of leaving the European Union.

2018 will be the year of Brexit decisions, and Holst, Advokater has dedicated a series of newsletters to Brexit. This newsletter is our first, introducing the background and the procedure leading to Britain's exit from the European Union.

Background

The European Union is a political and economic union of 28 member states. The Union has developed an internal single market, ensuring the free movement of people, goods, services and capital within the internal market. All of these free movement rights will no longer apply to Britain when Britain ceases to be a member of the European Union. What will actually happen is still difficult to predict as the terms are up for negotiation between Britain and the 27 remaining member states. What we do know, however, is when it will happen and what will be the procedure thereof.

Procedure

On 29 March 2017, Prime Minister Theresa May triggered Article 50 of the Treaty on the European Union, thereby initiating the procedure of Britain's withdrawal from the Union.

Separation

Britain is scheduled to leave the European Union on Friday 29 March 2019 at 00:00 CET. If no withdrawal agreement is reached before this date, the EU Treaties will automatically cease to apply to the UK.

Therefore, Britain and the EU have been engaged in negotiations on the terms of the separation. An agreement in principle on the priority issues was reached on 8 December 2017.

Such priority issues included citizens' rights, a financial settlement and the border between Northern Ireland and Ireland. A number of specific aspects are still pending discussion. "Sufficient progress" has been achieved, however, on the priority issues, and negotiations have therefore moved forward to agreements on transitional arrangements and the future relationship.

The British EU Withdrawal Bill, a Bill to repeal the Act by which EU law is given effect in Britain and introduce new legislation following the withdrawal of Britain from the EU, was passed in both Houses of Parliament and became law by Royal Assent on 26 June 2018.

Transition period

On 19 March 2018, Britain and the European Union agreed on a transition period. The transition period will commence on 30 March 2019 (two years after the triggering of Article 50) and will run until 31 December 2020.

Agreements on the future UK/EU relationship cannot be formalized until Britain has left the European Union. Consequently, there will be a gap between the British withdrawal and the entry into force of the future framework. Therefore, the parties have agreed on an implementation period to ensure an "orderly withdrawal". Businesses and others can use this period to prepare for the moment when the new rules between Britain and the European Union come into force.

During the transition period, Britain will continue its membership in all but name. EU law will continue to apply to and have the same legal effect in Britain as in other member states. The European Union's institutions and agencies will continue to have jurisdiction in Britain, but during the transition period, Britain will no longer be entitled to participate in the decisionmaking procedures of EU institutions.

During the transition period, Britain will be able to negotiate and sign new free trade deals, but Britain will have to wait until after expiry of the transition period for new deals to come into effect.

Reengagement

Agreements on the future relationship between Britain and the European Union can only be concluded once Britain is no longer a member of the EU.

During the transition period, Britain and the European Union will negotiate on the new set of rules framing their relationship.

However, Britain and the European Union have agreed on a general structure for further talks on their future relationship, and negotiations have already begun.

Holst, Advokater will look more into the negotiations on the future relationship in our upcoming newsletters, including the effect that this relationship will have on Denmark, Danish trade and commercial contracts. In our next newsletter, we will focus on the various EU-principles at stake when Britain leaves the Union.

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