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Key debates in parliament will be over the exit date, the process of agreeing a transition and what would happen if no deal is agreed with the EU27 | Andy Rain/EPA

## How EU (Withdrawal) Bill could change course of Brexit

British MPs could restrict the government's ability to deliver its Brexit plan.

By **ANNABELLE DICKSON** | 11/15/17, 4:01 AM CET | Updated 11/20/17, 3:18 PM CET

LONDON — The EU (Withdrawal) Bill could prove the trigger for the U.K. parliament to flex its muscles and change the course of Brexit.

How MPs vote on the legislation — which was supposed to be a simple copy-and-paste exercise to bring existing EU law onto the U.K. statute book — could yet limit Theresa May's room for maneuver in negotiations with the remaining 27 EU countries as Britain prepares for its exit.

Three significant disputes — over the exit date, the process of agreeing a transition, and what would happen if no deal is agreed with the EU27 — could convince Tory rebels to vote with Labour and ultimately restrict the government's ability to deliver Brexit on its own terms.

While May has so far managed to align her party behind each step of the Brexit process — with just one Conservative MP voting against the decision to trigger Article 50 — fault-lines in support for the government's position were visible Tuesday when MPs began the laborious process of wading through 470 proposed amendments to the bill.

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“No arm-twisting and nothing that can be done to me in the intervening period. It is unacceptable” — *former Attorney General Dominic Grieve*

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Debate will continue over eight days spread over the weeks leading up until Christmas. Here's what to watch out for:

### **Extending negotiations**

Underpinning many of the thorniest issues is Prime Minister Theresa May's decision last week to add a date of departure to the front of the bill.

The announcement that the U.K. would enshrine in law the date Britain leaves the EU — 11 p.m. on March 29, 2019 — which was revealed via a strongly worded editorial in the *Telegraph*, was criticized by opposition MPs and those on her own side, including former Attorney General Dominic Grieve, who said the announcement was “landed on us as a diktat.”

Another Conservative MP familiar with the thinking of potential rebels said there was a real possibility the government's amendment that added the date to the bill could be defeated, with 15 MPs telling him they were unhappy with the idea.

In the House of Commons on Tuesday, Grieve, a Conservative widely admired for his legal expertise, said setting a departure date in U.K. law could mean the U.K. would fall into a void if “agreements, transitional arrangements and everything else” had not been worked out in time.



Grieve adamantly opposes voting to enshrine a leave date into law | Facundo Arrizabalaga/EPA

“There are absolutely no ifs, no buts and no maybes about this — no arm-twisting and nothing that can be done to me in the intervening period,” he said. “It is unacceptable and I will not vote for it.”

Other opponents said the government should leave itself the option to continue negotiating if an agreement is not struck and the EU27 are willing for talks to continue.

Paul Blomfield, a shadow Brexit minister, also speaking in the House of Commons, said: “If negotiations go down to the wire and both we and the EU recognize the need for an extra week, an extra day or even an extra hour to secure a final deal, then the government has made it unlawful for themselves.”

Anand Menon, professor of European politics at King’s College London and director of the U.K. in a Changing Europe think tank, said it would be “barmy” to

have a piece of legislation that made it impossible for the European Council to extend the Article 50 process.

“This idea that we are going to have this date and that is simply to assuage the fears of a bunch of people who insist on seeing anything they don’t like as a betrayal strikes me as political short-termism gone mad,” he said.

## Transition

The opposition Labour Party argues the bill, and the amendment setting a date for departure, could also have implications for the U.K. in striking a transition agreement with the European Union.

Shadow Brexit Secretary Keir Starmer said at the weekend that the legislation’s current wording prevented the European Court of Justice from continuing to have a role as the U.K. transitions to a new relationship with the bloc post-Brexit, something the EU27 have pushed for.



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Blomfield said by setting a date of departure in law the government risks blowing the prospect of the prime minister’s transition deal out of the water.

“Put simply, if there is no role for the [European] court, the prime minister cannot secure the transitional arrangement she set out in the Florence speech,” he told MPs Tuesday.

“Closing down the opportunity for effective transitional arrangements is deeply self-harming. It is not in the national interest. It closes down flexibility we might need,” he said.

The government on Monday announced plans for a separate bill — the Withdrawal Agreement and Implementation Bill — a move one U.K. official said would declutter the withdrawal bill and address concerns about the implementation period.



May's attempt to put the date on the bill has won backing from hard Brexiteers | Leon Neal/Getty Images

The official also said that putting the date on the bill did not alter the British government's wish for an implementation period and a deal.

Catherine Barnard, professor of EU law at Trinity College, Cambridge, said the detail of a future relationship with the EU would take huge amounts of negotiation and in reality might not be concluded and ratified until 2024.

"What may happen is you have an [EU Withdrawal] Bill that turns these things off, and a [Withdrawal Agreement and Implementation Bill] that turns them on again," she said.

While one Labour amendment requiring the government to specify how a transition period would operate was successfully defeated by the government Tuesday, concern about blocking off options for transition are widespread and likely to be debated repeatedly in the coming weeks.

## **No deal**

May's attempt to put the date on the bill has won backing from hard Brexiteers, including Tory veteran John Redwood, who told MPs "complete certainty" about when Britain would leave was needed and it required "a precise time of transfer."

“People need to know which law they are obeying and to which court they are ultimately answerable, minute by minute, as they approach the transfer of power on the day in question, and that is a very important part of the process,” he said.

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“[The exit date] may well tie the government’s hands in ways they don’t want to have it tied” — *law professor Catherine Barnard*

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But Barnard said that by specifying the exit date the government removed considerable flexibility, which could have proved useful if no deal is agreed with the EU27 at all.

She said that if an agreement was concluded at the 11th hour, it would still have to be ratified by the European Parliament, which would need “wriggle room” in early 2019.

“[The exit date] may well tie the government’s hands in ways they don’t want to have it tied,” she said.

The U.K. official, however, said that extending negotiations was “not the intention of either us or the EU. We both want this agreed with plenty of time.”