

August 2020 Update

Chapter 5 – Parliamentary sovereignty, the European Union, and Brexit

5.8.1 Transition period

The UK left the EU on 31st January 2020. At which point it entered the “Implementation Period”, which is referred to more often as the “Transition Period”. The intention is that during this period, the future relationship between the UK and EU would be negotiated and would take effect at the end. Initially, the transition period will end on 31st December 2020, unless the UK requests to extend it, for either one or two years. Any such request had to be made by the end of June 2020.¹

The Conservative Party manifesto for 2019 made clear that a Conservative government would not seek an extension.² After winning an overall majority of 80 and retaining office, Boris Johnson sought to implement this commitment, stating in the House of Commons that ‘[t]here would be nothing more dangerous than extending the implementation period’,³ and went as far to make it unlawful for any minister to request an extension from the EU.⁴

Some, including the First Ministers of Scotland and Wales, felt that the disruption caused by COVID-19 meant that an extension was now necessary, regardless of what was intended by the government.⁵ These calls fell onto deaf ears, and the government confirmed its intention not to request an extension in June 2020, meaning that the transition period will end on 31st December 2020.⁶ From the 1st January 2021, EU law will

¹ Withdrawal Agreement, Arts 126 and 132.

² The Conservative and Unionist Party, ‘Manifesto 2019’ (Conservative and Unionist Party, 2019) 5 [https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf].

³ HC Deb 20 December 2019, vol 669, col 147.

⁴ European Union (Withdrawal) Act 2018, s 15A as inserted by European Union (Withdrawal Agreement) Act 2020, s 33.

⁵ Scottish Government, ‘Brexit Transition’ (12 June 2020) [<https://www.gov.scot/news/brexit-transition/>].

⁶ European Council, ‘EU-UK Statement following the High Level Meeting on 15 June 2020’ (15 June 2020) [<https://www.consilium.europa.eu/en/press/press-releases/2020/06/15/eu-uk-statement-following-the-high-level-meeting-on-15-june-2020/>].

no longer apply in the UK and the provisions of the European Union (Withdrawal) Act 2018 regarding retained EU law (amongst many other things) will take effect.

5.9 The Future Relationship

Now it has been confirmed that the UK will not seek an extension, attention has focused on the negotiations for the future relationship between the UK and the EU. The European Council has reaffirmed its intention for the future relationship to be guided by the political declaration— the Framework for the Future Relationship— that was negotiated as part of the Brexit process. Negotiations are continuing, with a round of negotiations taking place each month, however there still appears to be some distance between the parties, raising the possibility of no deal being reached by the end of December 2020.