



## Highlands & Islands European Partnership

Toggle navigation

- [Search & Alerts](#)
- [Profile](#)
- [Organisation Profile](#)
- [News and Events](#)
- [Case-Studies](#)

### EU Issue Tracker - Brexit Negotiations

This page gives an overview of the main official developments since the UK voted to leave the EU in June 2016. It is updated as new information becomes available.

#### Latest developments

**Withdrawal from the EU** – Newly appointed Secretary of State for Exiting the EU Dominic Raab and EU Chief Negotiator Michel Barnier held a [press conference](#) highlighting significant progress made, but acknowledging the need for more work in the coming weeks to address divergent views on how to address issues related to the island of Ireland. None of the already agreed provisions can be confirmed until "everything is agreed."

**Future Relationship** – The UK published a [White Paper](#) on the future relationship, calling for commitment to common rules in areas which would provide for frictionless trade at the border, and the possibility for the UK to diverge on regulation in other areas, notably services and digital. Barnier questioned whether the UK's proposals on customs could be acceptable for the EU, and underlined the importance the EU places on regulatory autonomy. Prior to the publication of the White Paper, the Commission published a slide outlining the possible framework for the future relationship, suggesting a free trade agreement similar to CETA, and normal EU rules for third countries in relation to data and services. However, the Commission emphasised that its position could change if the UK made concessions on its red lines.

**EU funding** – The UK Treasury has announced an extension to its EU Funding Guarantee. Any EU funding secured by UK organisations from now until the end of 2020 will be guaranteed by the UK government, even in the case of the UK leaving the EU without a Brexit deal. The guarantee applies to the UK's full allocation for European Structural and Investment Funds until the end of 2020 and to funding successfully bid for through the centrally-managed competitive programmes such as Horizon 2020. This means organisations in Scotland can continue to bid for EU funding beyond the UK's exit from the EU in March 2019.

The UK has also confirmed that it is interested in associating to Horizon Europe (the post-2020 EU research and innovation programme), which would allow UK organisations to take part in projects funded by the programme. This is dependent on the final shape of the programme and on negotiations between the EU and the UK.

**Brexit Preparedness** – On 19 July 2018, the Commission published a policy paper stating that [preparation for Brexit](#) must "be stepped up immediately at all levels," emphasising the need for

companies and professionals to take action. EU agencies such as the European Banking Authority have made similar statements. On 22 July, Brexit Secretary of State Dominic Raab said “any responsible government must make sure we have planning in place in case of a no-deal outcome.” In June 2018, the Scottish Government announced additional support to help businesses prepare for Brexit.

**Citizens** – The UK Government has provided [more information about the planned “settled status” scheme](#) for EU27 citizens living in the UK who wish to stay in the UK after June 2021. As of 1 July 2021, it will be mandatory for EU27 citizens living in the UK who do not already have indefinite leave to remain to hold settled or pre-settled status. The online application process will open in March 2019 (although a trial will open on 28 August), and the proposed fee is £65 for people over 16, and £32.50 for people under 16.

## What are the next steps?

Further work on the deal is required before the Withdrawal Agreement can be formally concluded, with both sides cautioning that **“nothing is agreed until everything is agreed”**. Negotiators will meet again in mid-August, and hold weekly meetings thereafter.

Article 50 of the Treaty of the European Union allows for a two year negotiating period, meaning that the UK will leave the EU on 29 March 2019, unless there is unanimous agreement amongst the Member States to extend this period. No extension has been publicly discussed. The transition period would be until 31 December 2020. EU law would apply to the UK, as it does currently, but the UK would not be represented in the EU institutions. After this date, the UK’s relationship with the EU will be determined by the Withdrawal Agreement, and any other provisions which are subsequently agreed. It is not yet known how much of the future relationship will be discussed and agreed before March 2019.

The Withdrawal Agreement must be approved by a qualified majority of the 27 remaining Member States (72% of country votes, which must also represent 65% of the population), and by the European Parliament.

Given the need for this formal approval, negotiators plan to complete talks in October 2018.

## What has happened?

### Withdrawal from the EU and Transition

On 29 March 2017, the Prime Minister officially notified her counterparts in the other EU Member States (the EU27) of the [UK’s intention to leave the EU](#), starting the two-year process outlined in Article 50 of the Treaty of the European Union. The letter confirmed that the UK is not seeking to retain membership of the Single Market.

In May, the EU27 agreed its [Brexit negotiating mandate](#), and negotiations began following the UK General Election in June 2017. The European Commission is negotiating with the UK Government on behalf of the EU27. The UK remains an EU Member State until 29 March 2019, with all of the related rights and obligations.

On 8 December, UK and EU negotiators reached [a provisional deal](#) on the first phase of the Brexit negotiations. EU Leaders agreed at the 14-15 December European Council Summit that sufficient progress has been reached, allowing negotiators to start discussing the future relationship between the UK and the EU.

On 19 March, UK and EU negotiators reached a political deal on the terms of a Brexit transition agreement. The transition deal was announced as part of [a wider announcement highlighting progress made on the draft withdrawal agreement](#). While negotiators have now reached provisional agreement on many issues relating to EU funding and citizens' rights, further work is required on the island of Ireland.

## **Transition**

As proposed by the EU, the agreed transition period will be until 31 December 2020. EU law will apply to the UK, as it does currently, but the UK will not be represented in the EU institutions. Where seen to be necessary, representatives from the UK will be able to take part in expert groups. If a draft EU law refers to Member State authorities, procedures, or documents, the UK will be consulted "with a view to ensuring the proper implementation and application of that act by and in the United Kingdom."

During the transition period, the UK would be authorised to negotiate, sign and ratify international agreements in its own capacity in areas of exclusive competence of the EU (such as international trade agreements), but these would not be allowed to enter into force until the period has ended.

## **Citizens' Rights**

Free movement of people is a fundamental EU right, working in parallel with free movement of goods, services, and capital.

In December 2017, UK and EU negotiators provisionally agreed that EU27 citizens in the UK and UK citizens in the EU27 who have not yet acquired permanent residence rights will be fully protected by the Brexit Withdrawal Agreement and can acquire these rights post-Brexit. There will also be protections for immediate family members who do not yet live in the same country as the EU27/UK citizen.

In the UK, this means that non-UK EU citizens continuously and lawfully living in the UK for five years at 29 March 2019 will be able to apply for "settled status" (indefinite leave to remain). On 28 February, the Home Office also confirmed that EU27 citizens and their family members will be able to move to the UK during the transition period on the same basis as the UK. People with less than the necessary five years will be eligible to register for a temporary status to allow them to reach the threshold.

This settled status must be pro-actively applied for. While current rights are automatic as a result of EU membership, failure to make an application for settled status (or temporary status) will result in an EU27 citizen being in the UK unlawfully after the Brexit transition period ends. A trial of the application process will open on 28 August. It will fully open in March 2019, with a deadline of 30 June 2021.

Those who have not yet acquired permanent residence rights will be fully protected by the Withdrawal Agreement and can acquire these rights post-Brexit. The Agreement will protect the rights of family members who do not yet live in the same country as the EU27 citizen or UK national.

A compromise has been reached whereby European Court of Justice (ECJ) case law will be used to interpret the deal on citizens' rights and UK courts should be able to refer cases to the ECJ for a period of eight years after the Withdrawal Agreement comes into force.

EU27 citizens will be able to live and work in the UK during the transition on the same basis as currently, and remain to amass the five year's residence required for attaining settled status.

## Financial Settlement and EU Funding

The UK will contribute to the EU budget for 2019 and 2020 “as if it had remained in the Union.” Although no figures are detailed, the negotiators have agreed a methodology for the financial settlement.

The December 2017 joint report outlining the negotiated deal includes the lines: “The UK will contribute to, and participate in, the implementation of the Union annual budgets for the years 2019 and 2020 as if it had remained in the Union... Following withdrawal from the Union, the UK will continue to participate in the Union programmes financed by the MFF 2014-2020 until their closure (excluding participation in financial operations which give rise to a contingent liability for which the UK is not liable as from the date of withdrawal). Entities located in the UK will be entitled to participate in such programmes. Participation in Union programmes will require the UK and UK beneficiaries to respect all relevant Union legal provisions including co-financing. Accordingly, the eligibility to apply to participate in Union programmes and Union funding for UK participants and projects will be unaffected by the UK’s withdrawal from the Union for the entire lifetime of such projects.” The UK and UK beneficiaries would be expected to continue to respect EU legal provisions, including on co-financing. As “nothing is agreed until everything is agreed,” the UK Treasury is maintaining its EU funding guarantee for UK organisations taking part in EU funded projects.

The report also says: “The UK states that it may wish to participate in some Union budgetary programmes of the new MFF post-2020 as a non-Member State.”

The UK will lose its current access to the European Investment Bank (EIB) and will unwind its investments and liabilities over a 12 year period. The UK could negotiate a new relationship with the EIB in the future.

A [letter from the Chancellor of the Exchequer](#) to the House of Commons Treasury Select Committee outlines the financial settlement agreement.

## Island of Ireland

The Republic of Ireland is the only EU Member State with a land border with the UK. Brexit presents a number of legal and political challenges in relation to this border. Since 1922, there has been a Common Travel Area between the Republic of Ireland and the UK, Isle of Man and Channel Islands, with various rights for citizens which pre-date and are separate to rights enshrined in EU law. The UK and Ireland joined the EU at the same time. There is general political agreement that reintroducing a hard border on the island of Ireland post-Brexit is undesirable, with a border separating the Republic of Ireland and Northern Ireland from the rest of the UK also presenting significant problems.

The UK remains committed to avoiding a hard border on the island of Ireland and will seek to achieve this “through the overall EU-UK relationship.” If this is not possible, and in the absence of agreement on specific solutions for the island of Ireland, “the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 [Belfast] Agreement...In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland’s businesses to the whole of the United Kingdom internal market.”

The EU has proposed a plan to avoid a hard border on the island of Ireland, whereby a “common regulatory area” would be established. In practice, this would mean Northern Ireland remaining in the EU customs union and in the single market regime for some sectors, with free movement of goods on the island of Ireland and goods entering from Great Britain being subject to checks.

The Commission emphasises that this is a fall-back plan which could be followed in the absence of an agreement on wider issues and/or specific solutions proposed by the UK.

The UK's proposals for the future include "a free trade area for goods that avoids either party imposing additional checks at the border, protecting integrated supply chains and the jobs and livelihoods dependent on them, and meeting our commitments to Northern Ireland and Ireland."

Both sides have significant issues with the other's proposal, which they will continue to work on in the coming weeks.

## **What is the Scottish Government's position?**

In December 2016, the Scottish Government published [Scotland's Place in Europe](#), arguing in favour of the UK remaining in the Single Market. The paper also sets out a differentiated option, which would allow Scotland to remain in the Single Market in the event of the UK leaving.

In January 2018, the Scottish Government followed this up with [Scotland's Place in Europe: People, Jobs and Investment](#), which sets out the negative economic and social consequences of leaving the Single Market, the benefits of remaining part of EU developments such as the Digital Single Market, and the benefits of free movement of people. First Minister Nicola Sturgeon has said that – short of remaining in the EU – retaining Scotland's place in the Single Market is the Scottish Government's number one priority when phase two of the negotiations begins.

Reacting to the UK White Paper, Scottish Cabinet Secretary for Culture, Tourism and External Affairs Fiona Hyslop said: "there is some evidence that the UK Government now realises the damage of leaving the EU... the Scottish Government has been consistently clear that the best way to protect Scotland's interests and foster future growth – short of full EU membership which the people of Scotland voted for – is continued membership of the European Single Market and Customs Union."

In February 2018, the Scottish Government introduced [the UK Withdrawal from the European Union \(Legal Continuity\) \(Scotland\) Bill](#). Minister for UK Negotiations on Scotland's Place in Europe (now Cabinet Secretary retaining lead responsibility for Brexit) Michael Russell said "the Continuity Bill is contingency planning. It provides a sensible scheme for preparing devolved law for EU withdrawal. But if the EU Withdrawal Bill can be agreed, and if this Parliament consents to it, the Continuity Bill will be withdrawn."

The Scottish Government has a dedicated [Brexit website](#).

Created By:  
Eleanor McKeegan - November 13, 2017