

<b>Title:</b> European Union (Withdrawal) Bill	<b>Impact Assessment (IA)</b>
<b>IA No:</b> DExEU001	
<b>RPC Reference No:</b> RPC-4105(1)-DExEU	
<b>Lead department or agency:</b> Department for Exiting the European Union	
<b>Other departments or agencies:</b> N/A	
<b>Summary: Intervention and Options</b>	
<b>RPC Opinion: Green</b>	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
Unknown: likely small	Unknown: likely small	Unknown: likely small	Not in scope	Qualifying regulatory provision

**What is the problem under consideration? Why is government intervention necessary?**

We have considered how to provide maximum possible certainty as the UK leaves the EU. Within the timeframe set out by the Article 50 process, we need to prepare the UK statute book, and the statute books in Scotland, Wales and Northern Ireland, so that they continue to function once we are no longer a member of the EU. Repealing the European Communities Act – a necessary step to end the supremacy of EU law in the UK – without any further action will leave holes on our statute book. Even when converted into UK law, some EU laws will no longer function properly as they (for example) make reference to an EU body. We need to correct these problems before we leave the EU so that our legal system continues to function.

**What are the policy objectives and the intended effects?**

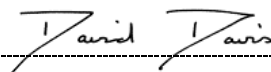
The Government's first objective as we negotiate a new deep and special partnership with the European Union is to provide business, the public sector and the public with as much certainty as possible. This Bill will maximise certainty by converting EU law into UK law on the day we leave the EU, ensuring that businesses can be clear about the rules that will apply in the UK once we have left, and that those rules make sense. The power to make corrections will ensure that the law continues to function properly by enabling ministers to correct problems that will arise as a result of our withdrawal from the EU.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The Government does not consider that there are alternative ways to prepare the domestic statute book for our exit from the European Union within the timetable dictated by the Article 50 process. The proposed policy is justified because it brings the maximum possible certainty for businesses, workers and consumers while the Article 50 process takes place, and enables the domestic statute book to reflect our withdrawal from the European Union. The Bill and the approach to correcting the law mitigates the risk that the UK will leave the EU without a functioning statute book, which would present significant uncertainty and cost to businesses and everyone in the UK.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> N/A				
Does implementation go beyond minimum EU requirements?			N/A	
Are any of these organisations in scope?			<b>Micro</b> Yes	<b>Small</b> Yes
			<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	
			<b>Non-traded:</b> N/A	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister: 

Date: 12/07/2017

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Take a power to make corrections to the law

## FULL ECONOMIC ASSESSMENT

Price Base Year: N/A	PV Base Year: N/A	Time Period Years: N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Unknown: likely small	Unknown: likely small	Unknown: likely small

### Description and scale of key monetised costs by ‘main affected groups’

The Government’s aim in this Bill is to maintain the existing laws that apply in the UK as we leave the EU. Substantive policy changes will be brought in through other new primary legislation. This means that there is no aim to create monetised costs through this Bill, though some may arise as a consequence of the corrections made to the law to ensure it continues to function outside the EU. These costs cannot be known in advance of the negotiations but we expect them to be limited.

### Other key non-monetised costs by ‘main affected groups’

The Bill will provide a power to correct the law where it will no longer function correctly once we have left the EU. The regulations causing any impacts will not be on the face of the Bill, as these are subject to the outcome of our negotiations with the EU. Existing statutory requirements on the making of statutory instruments will continue to apply. Under some of the possible changes brought forward by statutory instruments, limited familiarisation costs are likely, as are some changes to business and other processes.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Unknown: likely small	Unknown: likely small	Unknown: likely small

### Description and scale of key monetised benefits by ‘main affected groups’

The Government’s aim in this Bill is to maintain the existing laws that apply in the UK as we leave the EU. Substantive policy changes will be brought in through other new primary legislation. This means that there is no aim to bring in monetised benefits through this Bill, though some may arise as a consequence of the corrections made to the law to ensure it continues to function outside the EU. These benefits cannot be known in advance of the negotiations but we expect them to be limited.

### Other key non-monetised benefits by ‘main affected groups’

As above, the regulations which may bring benefits will not be on the face of the Bill, but rather will be brought into force later when our negotiations with the EU are complete.

### Key assumptions/sensitivities/risks

Discount rate (%)

The impact of the regulations made under the power to correct the law is dependent on the detail of those regulations when they are brought forward. The Bill and the approach to correcting the law mitigates the risk that the UK will leave the EU without a functioning statute book, which would present significant uncertainty and cost to businesses and everyone in the UK.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: Unknown, likely small	Benefits: Unknown, likely small	Net: Unknown, likely small	

## Background to the Bill

1. On 23 January 2013 the then Prime Minister announced his intention to negotiate a new settlement on the terms of the UK's membership of the EU, followed by a pledge to subsequently hold an in-out referendum on the UK's membership of the EU.
2. On 17 December 2015 the European Union Referendum Act 2015 received Royal Assent. The Act made provision for holding a referendum in the United Kingdom and Gibraltar on whether the UK should remain a member of the EU. The Government committed to honouring the result. The referendum was then held on 23 June 2016.
3. The result – by 52% to 48% – was a clear instruction from the people of the United Kingdom to leave the EU.
4. The European Union (Notification of Withdrawal) Act 2017 was then passed into law on 16 March and gave the Prime Minister the legal authority to notify the EU of our intention to withdraw from the EU under Article 50 of the Treaty on European Union. That notification was given to the President of the European Council, Donald Tusk, on 29 March 2017.
5. Under Article 50, the UK has two years from the date of notification to negotiate a withdrawal agreement with the EU, after which our membership of the EU will end.
6. The Government's first objective as we negotiate a new deep and special partnership with the European Union is to provide business, the public sector and the public with as much certainty as possible as we move through this process.
7. The European Union (Withdrawal) Bill is an essential part of the Government's plan for leaving the EU, as it will give effect to our withdrawal in domestic law. The Bill will principally:
  - 7.1. repeal the European Communities Act 1972 (ECA);
  - 7.2. convert EU law as it stands at the moment of exit into UK law, and preserve the laws we have made in the UK to implement our EU obligations;
  - 7.3. create temporary powers to make secondary legislation, which will enable corrections to be made to the laws that would otherwise no longer operate appropriately once we have left the EU, so that our legal system continues to function correctly outside the EU, and will also enable domestic law to reflect the contents of any withdrawal agreement under Article 50 that should be in place for day one of exit; and
  - 7.4. replicate the common UK frameworks created by EU law in UK law, and maintain the scope of devolved decision making powers immediately after exit. This will be a transitional arrangement to provide certainty after exit and allow intensive discussion and consultation with devolved administrations on where lasting common frameworks are needed.
8. The ECA gives effect in UK law to the EU treaties. It incorporates directly applicable EU law into the UK domestic legal order and provides for the supremacy of EU law. Other parts of EU law need to be implemented in the UK through domestic legislation, which the ECA provides a power to do.
9. The Bill's conversion of EU law into domestic law ensures that EU law that applies directly (such as EU regulations) becomes part of UK law on the day we leave the EU. The Bill also ensures that laws we have made in the UK to implement EU obligations (such as statutory instruments made under the ECA) continue as part of our law on and after exit day. In that way, EU laws are not being 'copied out' line-by-line into UK law, but rather being simply preserved by the Bill as they exist at the moment we leave the EU. In the same way, the case law of the Court of Justice of the European Union (CJEU) as it exists at the moment we leave the EU will be given the same status as the case law of the UK Supreme Court and the High Court of Justiciary, maintaining a coherent approach to interpreting the law once we have left the EU.

10. EU directives will not be transposed again into UK legislation. The UK will already have transposed EU directives into domestic law – either through primary legislation or through statutory instruments under, for example, the ECA. It is these domestic laws the Bill will save, rather than the EU directives themselves. This means that the way in which the UK has transposed any particular EU directive will not change, unless any corrections are necessary to the domestic law that implements the directive using the correcting power in the Bill (because it will no longer function as expected outside the EU, for example).
11. While there is no single figure for how much EU law already forms part of domestic law (and how much will therefore be converted by the Bill), according to EUR-Lex, the EU's legal database, there are currently over 12,000 EU regulations<sup>1</sup> (that is, directly-effective EU laws) and over 6,000 EU directives<sup>2</sup> in force across the EU. In addition, research from the House of Commons Library indicates that there have been around 7,900 statutory instruments made in the UK which have implemented EU legislation.<sup>3</sup> Further House of Commons Library research indicates that out of 1,302 UK Acts between 1980 and 2009 (excluding those later repealed), 186 Acts (or 14.3%) exhibited a degree of EU influence.<sup>4</sup> These EU regulations, domestic regulations, and Acts of Parliament (where they implement EU law) represent – along with laws passed by the devolved legislatures and the EU treaties – the main sources of EU law in the UK.
12. The Government's white paper *Legislating for the United Kingdom's withdrawal from the European Union*, published on 30 March (Cm 9443) sets out that simply converting EU law into domestic law will not be sufficient. A proportion of this law will continue to operate properly once we have left the EU simply by converting it into UK law. For example, large parts of employment law will continue to function properly. But an even larger proportion of the law will not function effectively after we leave the EU unless we take action to correct it.
13. There is a variety of reasons why conversion alone may not be sufficient in particular cases. There will be gaps where some areas of converted law will be entirely unable to operate because we are no longer a member of the EU. There will also be cases where EU law will cease to operate as intended or will be redundant once we leave. In some cases EU law is based on reciprocal arrangements, with all member states treating certain situations in the same way. If such reciprocal arrangements are not secured as a part of our new relationship with the EU, it may not be sensible or workable to continue to operate those arrangements on a unilateral basis. These problems with the law will be corrected using a power in the Bill, via secondary legislation, helping make sure we have put in place the necessary corrections before the day we leave the EU.
14. The whole Bill is designed to bring the maximum possible continuity and certainty and is not designed to bring in any substantive policy changes. This does not only relate to the power to correct the law, but extends to the whole approach – for example, in the treatment of CJEU case law. The meaning of EU law has, over many years, been determined by the rulings of the CJEU. To achieve the Government's aim of ensuring the same rules and laws apply on the day we leave the EU as they did before, in order to provide continuity and certainty, we must convert into UK law both the text of the law and the interpretation given by the CJEU. On that basis, the Bill provides that any question as to the meaning of EU-derived law will be determined in accordance with the CJEU's case law as it existed immediately before exit day. This approach prevents undue confusion as to the meaning of the law, and will prevent undue costs for businesses and

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<sup>1</sup> EUR-Lex search run on 26 May 2017, [http://eur-lex.europa.eu/search.html?qid=1490700962298&VV=true&DB\\_TYPE\\_OF\\_ACT=allRegulation&DTC=false&DTS\\_DOM=EU\\_LAW&typeOfActStatus=ALL\\_REGULATION&type=advanced&lang=en&SUBDOM\\_INIT=LEGISLATION&DTS\\_SUBDOM=LEGISLATION](http://eur-lex.europa.eu/search.html?qid=1490700962298&VV=true&DB_TYPE_OF_ACT=allRegulation&DTC=false&DTS_DOM=EU_LAW&typeOfActStatus=ALL_REGULATION&type=advanced&lang=en&SUBDOM_INIT=LEGISLATION&DTS_SUBDOM=LEGISLATION)

<sup>2</sup> EUR-Lex search run on 26 May 2017, [http://eur-lex.europa.eu/search.html?qid=1495788221421&DB\\_TYPE\\_OF\\_ACT=directive&CASE\\_LAW\\_SUMMARY=false&DTS\\_DOM=ALL&excConsLeg=true&typeOfActStatus=DIRECTIVE&type=advanced&SUBDOM\\_INIT=ALL\\_ALL&DTS\\_SUBDOM=ALL\\_ALL&FM\\_CODED=DIR](http://eur-lex.europa.eu/search.html?qid=1495788221421&DB_TYPE_OF_ACT=directive&CASE_LAW_SUMMARY=false&DTS_DOM=ALL&excConsLeg=true&typeOfActStatus=DIRECTIVE&type=advanced&SUBDOM_INIT=ALL_ALL&DTS_SUBDOM=ALL_ALL&FM_CODED=DIR)

<sup>3</sup> 'Legislating for Brexit: Statutory Instruments implementing EU law', House of Commons Library Research Paper 7867, 16 January 2017, page 6, <http://researchbriefings.files.parliament.uk/documents/CBP-7867/CBP-7867.pdf>

<sup>4</sup> 'How much legislation comes from Europe?', House of Commons Library Research Paper 10/62, 13 October 2010, page 19, <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-173/99>

individuals alike that would otherwise arise through, for example, fresh litigation of previously resolved issues.

## Do nothing option

15. We have not provided an assessment of a 'do nothing' option. If we left the EU but took no further action to prepare our domestic statute book, we would have an incomplete and confusing legal system. The ECA and domestic regulations made under it and other Acts, and primary legislation made to implement our EU obligations, would remain on the statute book. However, direct EU law (such as the 12,000 EU regulations that currently exist) would cease to apply in the UK at the moment we left, so we would be left with holes on our statute book.
16. Although some law would remain on our statute book, that law would contain a very large number of elements that would not operate sensibly and would need correcting, such as references to EU law or EU institutions, despite the fact we had left the EU. But there would in most cases be no existing delegated power to make these corrections. A few areas of policy might have pre-existing powers to make secondary legislation that were suitable to correct the law, but many would not.
17. This is a unique situation and, given the complex and wide range of issues regulated and affected – wholly or in part – by EU law, it would not be proportionate to quantify and monetise the impacts of the 'do nothing' scenario across these thousands of areas, particularly given the significant uncertainty involved. What is clear is that, in such a scenario, the UK statute book would no longer function correctly and this would cause widespread and severe confusion for business, Government and wider society. There would also undoubtedly be high volumes of litigation seeking to resolve the confusion. This would all bring long-term financial and reputational costs for the United Kingdom, which we have not attempted to quantify because it would not be proportionate to do so, although we have attempted to draw out the types of impacts and groups affected in the case studies in this impact assessment.

## Assessing the impact

### Introduction

18. As set out in the Prime Minister's letter triggering Article 50, the United Kingdom wants to agree with the European Union a deep and special partnership that takes in both economic and security cooperation. The precise shape of that partnership will be determined in negotiations, and its implementation will not primarily be through the European Union (Withdrawal) Bill. The purpose of the European Union (Withdrawal) Bill is to bring the maximum possible certainty for day one outside the EU.
19. This document assesses the impact of the European Union (Withdrawal) Bill, which is the Government's preferred option for preparing the statute book for our withdrawal. **It is an assessment of that Bill, and not an assessment of the decision to leave the European Union – a decision that has already been taken by the people of the United Kingdom.**
20. The assessment focuses in particular on the potential impact of the use of the correcting power in the Bill. The correcting power is an essential part of preparing the statute book for our exit from the EU, but does carry the risk that there may be some limited but necessary costs to its use, which are explored further below.
21. Some of the technical changes that will need to be made to the statute book – for example, amending references to "other EU member states" – will need to be made regardless of the outcome of our negotiations with the EU. Other changes, such as the transfer of functions from the EU to the UK, are much more dependent on the outcome of the negotiations, making it impossible to assess their impact in advance. But even where changes are not dependant on the negotiations, the volume of the changes means that we have not attempted to quantify the costs of the Bill across all sectors of the economy. Instead, we give an indication of the possible impacts.

## Determining the costs

22. The Government has been clear that the European Union (Withdrawal) Bill does not aim to make major changes to policy or establish new legal frameworks in the UK beyond those that are necessary to ensure the law continues to function properly from day one. This means the Government will bring forward a number of further bills during the course of the next two years to ensure we are prepared for our withdrawal – and that Parliament has the fullest possible opportunity to scrutinise this legislation. Subject to the Government's clear position of not disclosing material that could damage the United Kingdom's position in its negotiations with the European Union, **the Government's intention is, in line with normal processes, for these new pieces of primary legislation to be accompanied by impact assessments that will provide appropriate discussions of the impacts of any policy changes.**
23. In most circumstances we expect under this Bill that the same rules will continue with some modifications to make them function correctly outside the EU, so there should usually be no significant costs or benefits (except transitional or familiarisation costs, which are discussed later) – EU regulation is simply being brought into UK law, with appropriate corrections. Where there are costs, they might relate to making changes to, for example, IT systems or administrative processes where those systems and processes rely on an EU-derived rule that requires correcting as a result of our withdrawal from the EU. Any benefits that arise will depend on the changes made in the secondary legislation made under the Bill, but it is possible that in making corrections to the law, existing burdens could be reduced as a consequence of correcting a particular law.
24. The main groups that will be impacted by the Bill are business and public services – but, depending on the nature of the changes made through secondary legislation under the Bill, consumers, customers and the end users of Government services might also be impacted if the laws that are corrected affect those groups. The case studies at the end of this document give practical examples of the sorts of changes that might be brought forward.
25. The direct cost to business of the provisions within the Bill is unknown because the way in which the powers will be exercised has not been determined in all cases - in some instances because it will be dependent on the outcome of our negotiations with the EU. Some exercises of the powers will also be determined by ministers in devolved administrations, and the UK Government cannot assess how those administrations will exercise the powers. The changes that come into force could affect a range of sectors in different ways, which will make an overall assessment of impact difficult given the differing nature of regulation in each sector. However, the overall approach of seeking to maximise continuity wherever possible is intended to minimise such costs.
26. While it is possible to provide an estimate of the number of SIs that will be needed (the Government currently estimates it will bring forward between 800 and 1,000), the nature of each change and its significance for affected businesses cannot be known at this stage. The number of SIs in itself is not a meaningful indication of impact – it is the content of the SIs that is relevant.
27. The changes described in this paper would be made using the correcting power in the Bill and brought forward using statutory instruments. The power to correct the law will be time-limited, and will expire two years after exit day. This means no more changes will be able to be brought in using the power after this point. When making corrections to the law under the European Union (Withdrawal) Bill, existing requirements on the making of statutory instruments will continue to apply. The impact of secondary legislation made under the Bill should be assessed in line with the appropriate framework when there is an impact on business.
28. Some powers contained within the Bill, such as the correcting power, will also be conferred on devolved ministers. In making secondary legislation through exercising these powers, they will similarly have to follow their usual scrutiny procedures.
29. For the reasons set out above, it is not possible at this stage to set out in detail the scale of the impact the powers in the Bill will have. However, the Government's best estimate of this impact at this stage is set out in the following section through a series of indicative case studies. In some instances these changes could result in reduced burdens on business (eg by removing reporting

requirements), or slightly increased burdens on business, but this will depend on decisions yet to be taken. Any reduction in burdens could offset familiarisation costs in some instances. In no instance, though, is the Government's intention to create or remove burdens through the European Union (Withdrawal) Bill directly, but rather simply to ensure the statute book functions as we leave the EU.

30. We do not consider it useful to estimate the number of changes that will be required under each of the types of case study below. This is not only because the number of changes that will eventually be required is still to be determined, but also because the number of changes in each 'category' of change is not a guide to the impact of the changes. Each change would have to be assessed on its merits.

## Familiarisation costs

31. The Government does recognise that, even where there is minimal or no change to existing practice following our exit from the EU, there may be some familiarisation or transitional cost to business, for example, where functions are transferred from an EU regulator to a UK regulator. In such situations we start from the position that the UK regulator will apply the same rules as the EU regulator applied at the moment we leave the EU, but with amendments to correct any parts of those rules that no longer function appropriately or sensibly. But even if the rules are exactly the same, businesses will need to familiarise themselves with the fact that there is a new regulator and any basic administrative changes (such as a new address for correspondence with that regulator, which might take an employee a few minutes to familiarise his or herself with). We would expect businesses to need to familiarise themselves with the impact of our exit from the EU on their work in the round, which should have less of an impact than assessing each statutory instrument individually (many of which will not be relevant to a given business). We will work hard with the relevant industry bodies to ensure that any regulatory changes are communicated as early as possible.
32. While these familiarisation costs cannot be quantified at this stage for the same reasons as above, generally such costs do tend to be a small proportion of the impacts associated with policy changes (although there is clearly some variance in relation to how significant a policy change is). While there will potentially be a large volume of statutory instruments that will be introduced under the powers, the changes these bring forward are intended to provide stability and maintain existing policy rather than deliver substantive policy changes. As such, the familiarisation costs under the Bill should be low, as the nature of the changes will be such that businesses should not need to radically alter their processes and behaviour as a result of the corrections made to the statute book, and the costs of familiarising employees with such changes should be commensurately low.
33. The case studies that follow illustrate the sorts of changes that could be made to the statute book under the correcting power. They do not represent Government policy and should not be taken as such.

## Case studies for the correcting power

### Case study 1: references to "EU law"

34. Throughout the statute book, there are references which will no longer be accurate once we leave the EU, such as references to "*Member States other than the United Kingdom*" or to "*EU law*". Such references will need to be removed or amended to ensure the statute book makes sense post-exit.
35. For example, it may be desirable to make simple and non-substantive amendments to references in the Public Passenger Vehicles Act 1981, as without changes they will not make sense after the UK ceases to be an EU member state. There are references to "*in another member State*" in section 21(1); "*of the other member State*" in section 21(3)(b); and "*by another member State*" in schedule 3, paragraph 7(c). These references could be changed to "*in a member State*", "*of the member State*" and "*by a member State*" respectively.

36. These changes might have no impact on business, as the rules in force before and after exit could remain the same.

### **Case study 2: involvement of an EU institution**

37. There will be law which, upon leaving the EU, will no longer work at all and which will need to be corrected to continue to work. An example of this would be Regulation (EC) No 1829/2003 on genetically modified food and feed, which provides the framework for authorisations for the sale of genetically modified food and animal feed in the EU. The regulation confers power on the EU Commission to adopt implementing rules ('tertiary legislation') on this function.
38. In the event that the UK no longer had a relationship with the EU on genetically modified food authorisations post-exit, appropriate bodies in the UK would need to exercise the same functions. The correcting power could be used to enable appropriate bodies in the UK to carry out the same functions, including making implementing rules.
39. Without this, the UK would not have functioning systems of genetically modified food and feed authorisation renewals on exit day. Without an authorisation system, agricultural businesses may be unable to trade abroad, including with the EU, and UK consumers would not have confidence in the safety of genetically modified food products.
40. If an agreement is reached on this topic with the EU, the power to implement the withdrawal agreement could be used to implement aspects of the changes that needed to be in place on day one of exit. However, the exact approach that will be taken here cannot be determined at this stage. Our negotiations with the EU and the decisions that flow from that will determine the approach that needs to be taken and will therefore determine the actual impact on businesses. However, should functions need to be transferred to appropriate bodies in the UK the regulatory impact would be expected to be minimal irrespective of approach as the intention would be to retain existing rules.

### **Case study 3: information sharing with EU institutions**

41. Once we leave the EU, there will be areas of law where policy no longer operates as intended. This is the case where legislation would continue to work legally and can be complied with, but where the policy outcome delivered by that legislation might cease to make sense.
42. For example, this will happen where preserved legislation will continue to require the UK to send information to EU institutions (or offices, bodies or agencies) or EU member states. The UK may still be able to comply with such requirements in legislation to send information where there would be no barriers to doing so (i.e. the law could still function). However, where the UK had not explicitly agreed during exit negotiations to continue to provide such information to the EU, there may well be reasons why the UK would no longer wish to send such information after we exit the EU, and where it would make sense to amend the legislation to avoid previously reciprocal arrangements becoming one-sided. Of course in some cases we may want to continue to exchange data with the EU.
43. An example of a requirement to share information with EU institutions would be the requirement for the UK to provide the European Commission with data relating to inland waterways transport as set out in Regulation 1365/2006.<sup>5</sup> The power in the Bill will allow the Government to make changes to a law like this where it no longer functions as intended.
44. Should the UK no longer want, or have agreed with the EU, to submit information to the Commission, the law would need to be corrected. Options would be to (1) amend the regulation so that the requirement remains to produce data on inland waterways in the form specified by the regulation, but cease sending the data to the European Commission, or (2) repeal the regulation entirely and have the statistics become subject to the UK's existing statutory framework.

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<sup>5</sup> Regulation (EC) No 1365/2006 of the European Parliament and of the Council of 6 September 2006 on statistics of goods transport by inland waterways and repealing Council Directive 80/1119/EEC



45. Under option (1), the impact on businesses would remain the same as now, though the data would be sent to a UK rather than EU body. Some further amendments might be necessary to ensure that the regulation continues to function in a UK-only context. For example, the requirement on the Commission to produce a report about “the benefits accruing to the Community” would need to be removed or changed, even if the regulation can otherwise function broadly as it does now.
46. Under option (2), the requirements in the regulation would fall away, but as official statistics, their production would fall under the Statistics and Registration Services Act 2007 and its associated Code of Practice. This would mean that, while there would be no obligation to collect such statistics, the Government would be able to choose to collect them, either in the same form or a different form. The impact on business would depend on whether the Government, under this option, chose to continue to collect these statistics or not, and in what form. If the statistics were no longer collected that could be a reduction in the burden on business.
47. If information is no longer to be submitted to the EU, the Government would need to decide whether to adopt option (1) or (2).

## Other powers in the Bill

48. It will also be possible to make changes to the statute book using other powers in the Bill. The principal such powers are described below.

## Implementing the withdrawal agreement

49. The Bill’s power to implement the withdrawal agreement will be used before exit day to reflect the contents of the withdrawal agreement, once agreed, in our domestic legal framework. As this power is designed to implement a withdrawal agreement, it is not possible to assess in advance of the conclusion of the negotiations what the impact of the exercise of this power might be on business or others, as the changes will be entirely dependent on the negotiations.

## Fees and charges

50. The Bill will enable ministers, with Parliament’s consent, to set fees or other charges for services that we have taken over from the EU. It also enables fees which were previously capable of being modified under the Finance Act 1973 or the ECA to continue to be modified when the powers in those Acts are no longer available (which is an automatic consequence of leaving the EU). Devolved ministers will also be able to use this power where their devolved administration has responsibility for the relevant function. It is possible that existing fees could be kept the same, increased, or reduced depending on the decisions of the UK or devolved minister who sets the fee. The imposition or removal of fees and charges does not of course affect the overall cost of a service, but merely determines where that cost is borne.
51. Examples of areas where fees are currently charged include animal health inspection fees and electronic cigarette production license fees. Where a function for which EU bodies currently charge a fee is transferred to a regulator operating in the UK or a devolved administration, for example, fees might be reduced depending on the nature of that regulator. Where new fees are created, they may represent a burden on businesses or individuals – though any new fee would have to be taken in the context of any other changes on business burdens as we leave the EU.

## Small and Micro Business Assessment

52. Where the proposals in this Bill have an impact on business, that impact will affect all businesses whose activity is in some way regulated or affected at present by EU law, irrespective of the business’s size. A micro (up to 10 employees) or small (up to 50 employees) business might find it more difficult to adapt to any changes brought forward under the power in the Bill simply because of the business’s size. But there is nothing in these proposals that applies specifically to

small or micro businesses as distinct from other sizes of business.

53. Familiarisation costs will be more significant to a small business – something the Government is acutely aware of. We will work hard with the relevant industry bodies to ensure that any regulatory changes are communicated as early as possible, and with small businesses in particular in mind.
54. In addition, the European Union (Withdrawal) Bill is not intended to bring in substantive new policy in relation to the treatment of smaller businesses (or any other area). Trying to do so at this time might reduce the benefits of stability and certainty that the Bill is intended to bring.

## Post-implementation reviews

55. The Bill will disapply the requirement for post-implementation reviews of the statutory instruments that are brought forward under the Bill. Ordinarily the Government undertakes post-implementation reviews as a way of checking whether regulatory burdens are justified. The European Union (Withdrawal) Bill, however, brings a unique set of circumstances. The regulations made under it will be corrections to existing laws. There will be a large volume of corrections made in a concentrated period of time, and the regulations are being made under a power that will cease to exist when the reviews would be due. These circumstances mean that the Government takes the view that post-implementation reviews of correcting regulations would be of limited value and impractical. This does not remove the general need to review and improve legislation in due course and where appropriate, but rather removes rigid review requirements as they relate to statutory instruments under the Bill.