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3HR Legal Weekly

Commercial

Brexit Update

This week parliament voted to pass the bill granting the prime minister the power to activate Article 50, which will start the formal Brexit process. The House of Lords had added amendments to the bill requiring a significant vote in parliament on the final terms of Brexit, and securing the rights of EU citizens currently resident in the UK. However, both of these amendments were voted down by the Conservative majority in the Commons. Theresa May had previously indicated that she would activate Article 50 before the end of March. Given the upcoming anniversary of the Treaty of Rome, it is likely the trigger will be pulled on or around 27 March.

Q: What about the potential second Scottish Independence referendum?

A: Nicola Sturgeon, the Scottish First Minister, has announced that the Scottish National Party (the SNP) will be seeking a second referendum on Scotland leaving the UK, largely due to Teresa May's announcement that the UK will be leaving the single market. While it seems highly unlikely that an independent Scotland would be able to remain in the EU after the UK left, Scotland would be able to apply for EU membership on its own. The government has stated that it will not support a second Scottish referendum before Brexit, but may have to allow as it might be politically difficult to refuse. Also, independence parties in Wales and Northern Ireland have used Scotland's announcement to urge the government to also allow those two countries to consider independence.

Q: So, does the UK owe the EU more than £50 billion?

A: It has been suggested that the UK should be forced to pay such a sum to honour its previous commitments and plug the hole in the EU budget caused by Britain's exit. However, there does not appear to be a legal system in place to order and enforce such a claim. What is most likely is some sort of reduced payment being made to the EU as part of a trade deal allowing UK access to the single market.

Q: What about future trade deals?

A: The countries that have indicated that they want to enter into a separate trade deal with the UK include: the United States, India, New Zealand, Australia, and the Gulf states. Commonwealth countries which had been unable to enter into a trade deal directly with the UK because of its EU membership will now be able to do so.

However, senior government sources have been warning the civil service to prepare for the possibility of no trade deal being struck, at which point the UK would have to rely on World Trade Organisation (WTO) standard tariffs. However, leaked Treasury documents warn that such a situation would have the worst long-term effect on the economy, so ministers should be keen to avoid leaving without a deal.

Q: What about EU countries' upcoming elections?

A: The Dutch general election took place this week. Sitting PM Mark Rutte, of the liberal centre-left party VVD, defeated the earlier favourite Gert Wilders, who had previously indicated that he would schedule a referendum on the Netherland's membership of the EU. French, German and Italian elections are also looming on the horizon. France's Front National leader Marine Le Pen and Germany's far-right Alternative for Germany party are tipped to have strong showings. If there are changes in government it could slow down Brexit negotiations, as the individual countries' negotiating positions with the EU may change. If right wing parties are elected and are therefore able to schedule their own independence referendums, the EU may end up receiving multiple Article 50 notifications. These elections could therefore have a serious impact on the future of the European Union.

Should you require any assistance in this or any other commercial area please refer to our 3HR Commercial Law team which can advise accordingly.

Richard Hull
Commercial Solicitor
E: richard.hull@3hracs.com



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