Why you should vote against the Government’s ‘meaningful vote’ amendment
Briefing by Unlock Democracy

*Note: This briefing addresses the Government’s amendment regarding Parliament’s meaningful vote on the withdrawal agreement. This is included as an appendix at the end of this briefing along with Viscount Hailsham and Dominic Grieve MP’s amendments.*

Overview

A meaningful vote for Parliament was originally added to the EU (Withdrawal) Bill during Committee Stage in the House of Commons.

Up until that point the Government had consistently opposed MPs being given a formal role in scrutinising and giving consent to the withdrawal agreement.

This is a deal which will bring into effect the single greatest constitutional change that the UK has undertaken in peacetime history. This is a deal which will have long-lasting implications for our policy at home and relationships abroad for decades to come. Yet the Government wanted no role for Parliament.

MPs insisted on the principle of a meaningful vote and backed Dominic Grieve’s amendment to guarantee Parliament a vote on the withdrawal agreement.

This was then built on by peers as the bill went through the House of Lords. Viscount Hailsham’s amendment unequivocally works to strengthen democratic accountability of the executive and fortify the power of Parliament in a number of ways:

- It creates a legal framework for the parliamentary process of approving the withdrawal agreement.
- It gives Parliament the power to issue a legally binding direction to the Government on the negotiations if either the withdrawal agreement resolution is rejected OR the Government fails to reach a deal by exit day.

This amendment does not bind the Government’s hands during the negotiations. It sets out a clear role for scrutinising the deal that is reached and specifies a role for Parliament if that deal is found not to be satisfactory. This is clearly in line with the principle of parliamentary sovereignty.

Now, the Government is seeking to tear the heart out of Parliament’s meaningful vote.
Key issues with the Government’s amendment

The Government has so far framed its amendment, tabled on the 7th June, as a concession. In reality, it significantly reduces the role for Parliament - a role that was backed by the House of Commons and strengthened forcefully in the House of Lords.

The Government’s amendment would mean that if the House of Commons decide not to pass the resolution, there are no practical consequences for the Government. The Government will be free to ignore Parliament and go ahead with their plans regardless.

According to the proposed amendment, if the House of Commons does not pass the resolution:

(5) A statement under subsection (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.

The House of Commons’ power in this instance therefore amounts to requiring the Government to have another think about what it is doing. The House of Commons cannot compel the Government to take any specific action if it democratically decides to reject the resolution. The only accountability mechanism the Government wants to impose on itself is the requirement to publish:

“(4)… a statement setting out how Her Majesty’s Government proposes to proceed”.

In fact, under the Government’s proposed terms, the relevant Minister would not even be required to make this statement to the Commons. This is particularly alarming if we consider the scenarios in which either no deal is reached by exit day, or if Parliament decides the deal the Government has reached simply isn’t good enough and so the resolution is voted down.

Parliament will have no power to compel the Government to take an alternative direction, nor will it have the power to influence the substance of this direction. Therefore, if the Government chooses to crash out with no deal, or pursue an agreement that MPs believe would harm the UK’s interests, Parliament will be able to do nothing.

The Government is also seeking to remove the requirement for Parliament to be able to scrutinise, debate, and vote on the Withdrawal Agreement before it goes to the European Parliament:

“(2) So far as practicable, a Minister of the Crown must make arrangements for the motion mentioned in subsection (1)(b) to be debated and voted on by the House of Commons before the European Parliament decides whether it consents to the withdrawal agreement being concluded on behalf of the EU in accordance with Article 50(2) of the Treaty on European Union.”

The Government gives itself substantial leeway to avoid giving the UK Parliament a vote on the withdrawal agreement before it goes to the European Parliament by saying this will only be allowed “so far as practicable”. There are many worrying implications here.
What would happen, for example, if the withdrawal agreement is agreed during a recess? Would Parliament be recalled to debate and vote on the deal? Parliamentary sovereignty would be undermined, or at very least severely restricted, if the European Parliament agrees to terms which the UK Parliament has not. It would be practically and politically impossible for the UK Parliament to ask the Government to renegotiate terms if these terms had already been signed off by the European Parliament.

The key test for a meaningful vote

The key test as to whether any vote on the withdrawal agreement is meaningful is what - if any role - there is for Parliament if MPs vote against the motion.

In the Hailsham amendment, this is clearly set out: Parliament can direct the Government as to how they should negotiate.

In the Government’s version, the Minister is only required to make a statement within 28 days. There is no role for Parliament in deciding the next steps, and no automatic role for Parliament if the Government fails to reach a deal or decides to leave with no deal.

Giving Parliament the ability to direct the Government in the event that the Government a) fails to reach a deal or b) Parliament votes down the resolution should also be considered an absolute minimum safeguard.

This amendment does not interfere with the Government’s ability to negotiate a deal. However it recognises that Parliament should have the final say. This is a Government riddled by indecision, infighting, and uncertainty. If the Government fails to reach a deal with the EU, or if the deal they reach is not sufficiently good for the future of the UK, Parliament must be empowered to act. This amendment provides for certainty in the event of no deal, or a deal which the majority of MPs do not feel they can support.

Please act now to defend parliamentary sovereignty. Reject the Government’s amendment and vote to keep Viscount Hailsham’s amendment in the bill so that Parliament has a meaningful vote on the final deal.

About Unlock Democracy

Unlock Democracy is the UK’s leading campaign for democratic and constitutional reform. Owned and run by its members, Unlock Democracy is creating an inclusive movement to make politics work for everyone. Unlock Democracy is coordinating an Alliance of over 80 organisations from across civil society that are seeking to amend the Withdrawal Bill to guarantee open and accountable lawmaking, and maintain a high standards UK. More information here: https://repealbill.org/.

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Appendix 1: Secretary of State David Davis’ amendment

To move the following Amendments to the Bill in lieu of the Lords Amendment:

(a)

Page 8, line 43, at end insert the following Clause—

“Parliamentary approval of the outcome of negotiations with the EU

(1) The withdrawal agreement may be ratified only if—
   (a) a Minister of the Crown has laid before each House of Parliament—
      (i) a statement that political agreement has been reached,
      (ii) a copy of the negotiated withdrawal agreement, and
      (iii) a copy of the framework for the future relationship,
   (b) the negotiated withdrawal agreement and the framework for the future relationship have
      been approved by a resolution of the House of Commons on a motion moved by a Minister
      of the Crown,
   (c) a motion for the House of Lords to take note of the negotiated withdrawal agreement and
      the framework for the future relationship has been tabled in the House of Lords by a Minister
      of the Crown and—
      (i) the House of Lords has debated the motion, or
      (ii) the House of Lords has not concluded a debate on the motion before the end of
          the period of five sitting days beginning with the first sitting day after the day on which
          the House of Commons passes the resolution mentioned in paragraph (b), and
   (d) an Act of Parliament has been passed which contains provision for the implementation of
      the withdrawal agreement.

(2) So far as practicable, a Minister of the Crown must make arrangements for the motion
    mentioned in subsection (1)(b) to be debated and voted on by the House of Commons before the
    European Parliament decides whether it consents to the withdrawal agreement being concluded on
    behalf of the EU in accordance with Article 50(2) of the Treaty on European Union.

(3) Subsection (4) applies if the House of Commons decides not to pass the resolution mentioned in
    subsection (1)(b).

(4) A Minister of the Crown must, within the period of 28 days beginning with the day on which the
    House of Commons decides not to pass the resolution, make a statement setting out how Her
    Majesty’s Government proposes to proceed in relation to negotiations for the United Kingdom’s
    withdrawal from the EU under Article 50(2) of the Treaty on European Union.

(5) A statement under subsection (4) must be made in writing and be published in such manner as
    the Minister making it considers appropriate.
(6) This section does not affect the operation of Part 2 of the Constitutional Reform and Governance Act 2010 (ratification of treaties) in relation to the withdrawal agreement.

(7) In this section—

"framework for the future relationship" means the document or documents identified, by the statement that political agreement has been reached, as reflecting the agreement in principle on the substance of the framework for the future relationship between the EU and the United Kingdom after withdrawal;

"negotiated withdrawal agreement" means the draft of the withdrawal agreement identified by the statement that political agreement has been reached;

"ratified", in relation to the withdrawal agreement, has the same meaning as it does for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010 in relation to a treaty (see section 25 of that Act);

"sitting day" means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);

"statement that political agreement has been reached" means a statement made in writing by a Minister of the Crown which—

(a) states that, in the Minister’s opinion, an agreement in principle has been reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of— (i) the arrangements for the United Kingdom’s withdrawal from the EU, and (ii) the framework for the future relationship between the EU and the United Kingdom after withdrawal,

(b) identifies a draft of the withdrawal agreement which, in the Minister’s opinion, reflects the agreement in principle so far as relating to the arrangements for withdrawal, and

(c) identifies one or more documents which, in the Minister’s opinion, reflect the agreement in principle so far as relating to the framework."

Secretary David Davis

Page 15, line 12, at end insert—

“( ) section (Parliamentary approval of the outcome of negotiations with the EU),"
Appendix 2: Viscount Hailsham’s amendment

Parliamentary approval of the outcome of negotiations with the European Union

(1) Without prejudice to any other statutory provision relating to the withdrawal agreement, Her Majesty’s Government may conclude such an agreement only if a draft has been—
   (a) approved by a resolution of the House of Commons, and
   (b) subject to the consideration of a motion in the House of Lords.

(2) So far as practicable, a Minister of the Crown must make arrangements for the resolution provided for in subsection (1)(a) to be debated and voted on before the European Parliament has debated and voted on the draft withdrawal agreement.

(3) Her Majesty’s Government may implement a withdrawal agreement only if Parliament has approved the withdrawal agreement and any transitional measures agreed within or alongside it by an Act of Parliament.

(4) Subsection (5) applies in each case that any of the conditions in subsections (6) to (8) is met.

(5) Her Majesty’s Government must follow any direction in relation to the negotiations under Article 50(2) of the Treaty on European Union which has been— (a) approved by a resolution of the House of Commons, and (b) subject to the consideration of a motion in the House of Lords.

(6) The condition in this subsection is that the House of Commons has not approved the resolution required under subsection (1)(a) by 30 November 2018.

(7) The condition in this subsection is that the Act of Parliament required under subsection (3) has not received Royal Assent by 31 January 2019.

(8) The condition in this subsection is that no withdrawal agreement has been reached between the United Kingdom and the European Union by 28 February 2019.

(9) In this section, “withdrawal agreement” means an agreement (whether or not ratified) between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU and the framework for the United Kingdom’s future relationship with the European Union.
Appendix 3: Dominic Grieve MP’s amendment

Implementing the withdrawal agreement

(1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purposes of implementing the withdrawal agreement if the Minister considers that such provision should be in force on or before exit day, subject to the prior enactment of a statute by Parliament approving the final terms of withdrawal of the United Kingdom from the European Union.

(2) Regulations under this section may make any provision that could be made by an Act of Parliament (including modifying this Act).

(3) But regulations under this section may not—
   (a) impose or increase taxation,
   (b) make retrospective provision,
   (c) create a relevant criminal offence, or
   (d) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it.

(4) No regulations may be made under this section after exit day.