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How meaningful is Parliament's meaningful vote on the Brexit deal?

Posted On : November 2, 2018 (<https://loupedin.blog/2018/11/how-meaningful-is-parliaments-meaningful-vote-on-the-brexit-deal/>) Published By : Kieran Laird (<https://loupedin.blog/author/kieranlaird/>)



Late in the passage of the European Union (Withdrawal) Act (the **EUWA**) through Parliament, a provision was inserted providing MPs with a so-called 'meaningful vote' on the Brexit deal negotiated by the government. Most MPs thought this provision would allow them to do more than simply vote to accept or reject that deal, and that they could instruct the government to return to Brussels to renegotiate any particular point, or give further conditions on their approval. However, in recent days the government has reopened the debate by suggesting that, when it comes down to it, Parliament may in fact be presented with a 'take it or leave it' choice.

The current debate

Section 13(1) of the EUWA outlines a set of conditions that must be met before any withdrawal agreement negotiated with the EU can be ratified. One of these conditions, in section 13(1)(b), is that MPs have voted to approve that agreement (which will cover items such as the 'divorce bill'), together with the framework for the UK's future relationship with the EU.

The current controversy stems from the fact the approval of those documents by MPs must be clear. The government's position is that such clarity requires an unequivocal approval. ([https://www.parliament.uk/documents/commons-committees/procedure/2017-19/Letter-from-the-Secretary-of-State-DEXEU-to-the-Chairman-on-section-13\(1\)-of-the-EU-\(Withdrawal\)-Act-2018.pdf](https://www.parliament.uk/documents/commons-committees/procedure/2017-19/Letter-from-the-Secretary-of-State-DEXEU-to-the-Chairman-on-section-13(1)-of-the-EU-(Withdrawal)-Act-2018.pdf))

Unlike, for example, the Fixed-term Parliaments Act 2011, the EUWA does not specify the wording of the motion on which MPs will vote. Because it will be framed in terms of the House approving the withdrawal agreement and future framework (a substantive motion), rather than simply taking note of them (a neutral motion), under the rules governing Parliamentary procedure the motion will be capable of amendment.

It is through such amendments that MPs had hoped to exercise some control by, for example, granting approval subject to certain conditions, or withholding approval and presenting instructions on what to do next. However, if, for example, MPs passed an amended motion which stated that the withdrawal agreement was approved subject to the government securing some change to its terms, or some further procedural step being met (like a second referendum), it might be difficult to say that the withdrawal agreement voted on had been approved as required under section 13(1)(b).

The government therefore wants to use a procedure which ensures that its original ('clean') motion is voted on before any amendments tabled by MPs. This voting practice differs from the norm, whereby amendments are voted on first before a final version of the resolution (whether amended or not) is voted on.

Under normal procedures the debate on whether or not to approve the withdrawal agreement and future framework would be limited to 90 minutes. In order to have a longer debate a business motion is required, and it is [this business motion which the government proposes to use to institute its preferred order of voting](https://www.parliament.uk/documents/commons-committees/procedure/2017-19/Memorandum-from-the-Government-on-parliamentary-approval-of-the-Withdrawal-Agreement.pdf) (<https://www.parliament.uk/documents/commons-committees/procedure/2017-19/Memorandum-from-the-Government-on-parliamentary-approval-of-the-Withdrawal-Agreement.pdf>).

The proposal calls into question whether there would be any point in MPs tabling amendments if they have already voted to approve the version of the deal put before them.

Where next?

The government is obviously keen for MPs to be presented with a straight 'take it or leave it' vote on the withdrawal agreement and future framework. It not least as the whips will only need to manage one vote rather than a number of votes on various amendments. However, some MPs see the government's position as an attempt to go back on its promise of a truly meaningful vote, and a diminishing of Parliament's powers under the EUWA to properly scrutinise the outcome of the negotiations.

The procedure to be used is still to be settled and will ultimately be decided by MPs themselves through a vote on any proposed business motion. It is clear, though, that the government needs the Commons on side to be able to ratify the withdrawal agreement, and this continuing debate over the extent of MPs powers, and the anger it has sparked, will only serve to make that vote more precarious and the Brexit process even more complicated.

However, MPs were previously given the opportunity to ensure a meaningful role for themselves before the Brexit process even started through the EU (Notification of Withdrawal) Act 2017 and failed to grasp that opportunity. Will they really choose to assert themselves now with the clock counting down to the end of that process?

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