

THE CHANNEL ISLANDS AND THE EU FOLLOWING THE UNITED KINGDOM'S WITHDRAWAL (BREXIT)

Introduction

1. The Channel Islands (the Islands) consist of the Bailiwicks of Guernsey and Jersey. They are British Crown Dependencies (CDs) with a direct allegiance to the British Crown which dates back more than 800 years. The Islands are not part of the UK but the UK has responsibilities for the Islands' defence and their formal international representation. Channel Islanders are also British nationals.
2. Guernsey and Jersey have their own directly elected legislative assemblies and are not represented in the UK Parliament, nor were they represented in the European Parliament. Consistent with historic practice, Guernsey and Jersey residents did not, therefore, form part of the UK electoral franchise for the June 2016 referendum on EU membership. Like other UK nationals overseas, however, Guernsey and Jersey residents that had resided in the UK the 15 years preceding the referendum had the right to vote in it.

The Channel Islands-EU relationship until 31 January 2020

3. Until the UK's withdrawal from the EU on 31 January 2020, the formal relationship between the Islands and the EU was enshrined in Protocol 3 to the UK's 1972 Accession Treaty and confirmed in what is now Article 355(5)(c) of the Treaty on the Functioning of the European Union (TFEU). Under Protocol 3, the Islands were effectively part of the Customs Union and could trade in goods as if they were part of the EU.
4. Protocol 3 also required the Islands to treat all natural and legal persons of the EU in a non-discriminatory way. However, the Islands were not bound by other aspects of EU free movement rules and were able to maintain their restrictions on rights to reside and work, in accordance with domestic law, provided this was done in a non-discriminatory way.
5. Except for the limited areas specified in Protocol 3, the Islands were outside the EU and were therefore treated as non-EU jurisdictions or 'third countries'. Since 1972, the Islands built up their own direct relationship with the EU, by voluntarily applying relevant EU standards when it was in their interests to do so and developing other forms of cooperation, separate from and additional to the formal Protocol 3 relationship through the UK's membership of the EU.

The Channel Islands-EU relationship from 1 February 2020 to 31 December 2020

6. Under the terms of the Withdrawal Agreement (WA) ratified by the UK and the EU, the EU Treaties, including Protocol 3, will cease to apply to the UK and to the CDs and Overseas Territories from the date of the UK's exit. However, the WA provides for a Transition Period (TP) to the end of 2020. This is extendable once by mutual agreement by up to two years, but the UK government has stated it does not wish to seek such an extension.
7. The WA makes clear in Article 3(c) that references to "the United Kingdom" in the WA includes inter alia "the Channel Islands and the Isle of Man, to the extent that Union law was applicable to them before the date of entry into force of this Agreement" - in other words to the extent to which Protocol 3 applies. During the TP, EU law will therefore continue to be applicable to the Islands to the extent that EU law was applicable before 31 January 2020 by virtue of Protocol 3.

The future Channel Islands' relationship with the EU

8. As a strategic choice, the Islands have for many years pursued a “good neighbour” policy towards the EU. This reflected the fact that the Islands are geographically part of Europe, their economies are strongly interlinked with the European economy, and they share the democratic values that underpin the EU. The Islands have made clear that, irrespective of the outcome of the future relationship negotiations between the UK and the EU, they are committed to maintaining this “good neighbour” policy and to maintaining and further developing their relationships with the EU Institutions and bilaterally with the EU27 Member States.
9. Brexit will not directly affect the Islands' relationship with the EU27 in key areas like tax, anti-money laundering, financial services, and data protection, where the Islands are already third countries and as such remain committed to close cooperation with the EU. *(Further details can be found on the Channel Islands Brussels Office website – www.channelislands.eu).*
10. The main areas of direct impact are those previously covered by Protocol 3. As regards citizens' rights, the Guernsey and Jersey governments have been clear from the outset of the Brexit process that it is their priority to protect the rights of EU27, EEA and Swiss citizens resident in the Islands. They represent around 20% of the resident population in Jersey and 7% in Guernsey and make a significant contribution to the communities and to the economies of the Islands.
11. The Islands have introduced EU Settlement Schemes, similar to the UK scheme, to allow these citizens to remain following Brexit. The application process has been designed to be as straightforward as possible and there is no fee. Many applications have already been made and processed successfully.
12. The Islands will be closely following the negotiations in 2020 between the EU and the UK on the future relationship and will make informed judgements about whether it would be in their interests to request the eventual UK-EU agreement on the future relationship to be extended in whole or in part to the Islands. Any such extension would of course also be subject to the agreement of the UK and the EU27.
13. In the meantime, in November 2018, the UK and the Islands concluded customs arrangements that will take effect at the end of the TP, when the UK and the Islands leave the EU Customs Union. Agreement was also reached with the UK in October 2019 over the extension to Guernsey and Jersey of the UK's membership of the World Trade Organisation (WTO) which will also take effect at the end of the TP.

Channel Islands Brussels Office
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