

**SCOTTISH PARLIAMENT INQUIRY INTO ARTICLE 50
WITHDRAWAL NEGOTIATIONS**

CULTURE, TOURISM, EUROPE AND EXTERNAL RELATIONS COMMITTEE
Submission by The Royal Society of Edinburgh

Background

- 1 The Royal Society of Edinburgh (RSE) has established an EU Strategy Group to inform and advise the UK Government, the Scottish Government and our current EU partners on issues that they will face and potential solutions in the negotiations for the UK leaving the EU. The Strategy Group is chaired by Sir John Elvidge. The work of the RSE draws on contributions from members of its Fellowship, the Young Academy of Scotland and others in Scotland with relevant expertise.
- 2 To carry out the detailed work on each of the major areas of Policy four Working Groups have been established covering: Migration, Diversity, Rights and Social Protection; Law & Governance; Economy & Public Finance; and Research, Innovation & Tertiary Education. Initial papers produced by each of these Working Groups in July 2017 are available at the links provided in the endnote.¹
- 3 This response to the Call for Evidence by the Culture, Tourism, Europe and External Relations Committee on Article 50 Withdrawal has been prepared following consultation with the Migration and Economy Working Groups. It concentrates on issues around the rights of EU citizens and the financial settlement. The Advice Paper has been approved on behalf of the RSE Council by the chair of the EU Strategy Group, Sir John Elvidge, and the General Secretary, Professor Alan Alexander.
- 4 In the short term, the first stages of the Article 50 negotiations may not have any implications that are solely specific to Scotland. It is likely that there

will be implications from the first stage of negotiations that will affect the UK more generally that will trickle down to Scotland.

Article 50

- 5 The effects of the withdrawal from the EU will be felt by all levels of Government across the UK and new powers from the EU will be required to be distributed accordingly. This places an importance on intergovernmental relations. So far, co-operation between the UK government and the devolved administrations in the Article 50 process appears to have been limited; in contrast, the devolved administrations themselves have responded to the Article 50 negotiations by working more closely together. Enhanced co-operation between different levels of government may lead to a less divisive outcome to the process.
- 6 The repatriation of powers from Brussels will provide a rigorous test of co-operation between distinct levels of government within the UK. The UK Government may wish to retain some of these powers. For example, control over agricultural support may be seen as necessary to facilitate international trade negotiations. On the other hand the devolved administrations, in particular Scotland and Wales, will argue that many of these powers are not “reserved” within the legislative framework which supports devolution and that therefore responsibilities should be transferred from the EU to the devolved administrations. Unless the UK Government and devolved administrations are willing to negotiate in good faith over these issues, a stable inter-governmental division of the powers transferred from the EU is unlikely.

- 7 Improved inter-governmental relations within the UK would also help in developing a common approach to third countries, international organisations and conventions post-Brexit. They will also ensure that the devolved nations have some influence in developing post-Brexit trade agreements. The RSE has previously commented on the need to strengthen the Joint Ministerial Committee system in an Advice Paper on Scotland's Fiscal Framework.²

The Financial Settlement

- 8 The withdrawal settlement ('EU Divorce Bill') has been a focus of the early negotiations. The EU Commission is clear that any orderly withdrawal must include a settlement covering the financial obligations. However, its size and legal basis have yet to be resolved. The settlement is one of three stages that the EU negotiators wish to agree before considering trade relations between the UK and EU. Recent estimates indicate that the net bill will be between £20bn and £60bn.³ The latest forecast by the Office for Budget Responsibility notes that there has been no explicit provision made for the exit payment. If the payment is to be paid in the next two years before the UK leaves the EU then this may have implications for the UK budget and the Scottish budget depending on its knock-on effect on "Barnett consequentials". If a large exit bill leads to cuts in UK spending in programmes such as education and health, then there will inevitably be downward pressure on the devolved administrations budgets through the Barnett Formula.

Research

- 9 Scotland has a specific interest in science and has been relatively successful in receiving significant levels of funding from the EU. Through funding from initiatives such as Horizon 2020, Scottish institutions have disproportionately benefited from EU funding in comparison to institutions in the rest of the UK. The outcome of Article 50 negotiations could have an effect on prospective funding for Scottish institutions. It is possible for the UK to still meet the criteria for European funding in research and innovation through keeping free movement of people, as a non-EU

member but in the Schengen area. Switzerland benefits from such an agreement. However, if the UK were to remove itself from free movement it is likely funding would be removed. This would affect Scotland more adversely than the rest of the UK. The uncertainty regarding the future commitments of the UK in its relationship with the EU post-Brexit could damage UK and Scottish research in the short term. This uncertainty may make it more difficult to win funding for projects and EU researchers may be less attracted to come and work in UK institutions, including those in Scotland.

Rights of EU citizens resident in the UK & UK citizens in the EU

- 10 Furthermore, effects on migration from Article 50 could be detrimental to Scotland. Scotland has benefited from EU migration supporting key industries such as Food and Drink, Higher Education, Energy and Financial Services. The early negotiations in Article 50 cover the rights of the EU27 citizens currently residing in the UK and UK citizens in the EU. So far there is significant uncertainty over the rights of EU citizens in the UK and their right to remain after Brexit; this has consequently placed the rights of UK citizens in the EU under similar uncertainty. This uncertainty has contributed to a drop in EU migration to the UK and a rise in the level of EU migrants returning to Europe.⁴ The failure to guarantee the rights of EU nationals in the UK will be detrimental to Scotland as figures show that Scotland relies more on EU migration than does the rest of the UK.⁵ The drop in migration to the UK and the rise in those returning to Europe will lead to short term economic effects, with tax revenues expected to fall. The Scottish Government has sought to guarantee the rights of EU nationals living and working in Scotland. The UK Government should be encouraged in the negotiation process to ensure the rights of EU nationals that would help reduce any short term effect of EU citizens leaving the UK, due to perceived lack of security on rights.

- 11** Consideration of the status and rights of EU27 nationals and their dependents should be an early priority of the Article 50 negotiations, as has been made clear by the EU negotiating team. Any agreement should cover: their right to remain in the UK; access to public services; and participation in democratic processes. The RSE notes that the Prime Minister, on behalf of the UK, made an initial offer with regard to this issue, but the response from the EU was that it fell short of their desired outcome in terms of the rights of EU citizens. It is clear that there is a significant gap between the aspirations of the EU and the offer made by the UK. Ultimately, an agreement will need to be reached between the EU and the UK on this issue and on the parallel rights of UK nationals. Failure to make early progress on this issue will lead to delays in progressing to discuss other aspects of Brexit.
- 12** In the longer term we would encourage both the UK and Scottish Governments to consider the various options that exist in developing an immigration policy post-Brexit. Such deliberation should take into account not just immediate labour market needs, but also longer-term economic and demographic impacts, including the distinct needs of the devolved administrations and other regions and cities in the UK. It should also place central weight on the rights, status and well-being of long-term foreign-born residents. These issues will be explored in a separate submission to be made to the Immigration Inquiry of the Committee.

Additional Information

Any enquiries about this Advice Paper should be addressed to Mr Bristow Muldoon (email: bmuldoon@theRSE.org.uk)

Responses are published on the RSE website (www.rse.org.uk).

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Endnotes

- 1 RSE July 2017:
Migration: https://www.rse.org.uk/wp-content/uploads/2017/07/17-13_Final_EUseries-Migration_Diversity_Rights_Social_Protection.pdf
Economy: <https://www.rse.org.uk/advice-papers/brexit-challenges-opportunities-economy-public-finance-economic-strategy/>
Research: <https://www.rse.org.uk/advice-papers/brexit-challenges-opportunities-research-innovation-tertiary-education/>
Law & Governance: <https://www.rse.org.uk/advice-papers/brexit-challenges-opportunities-constitutional-law-government/>
- 2 RSE April 2015: Scotland's Fiscal Framework: https://www.rse.org.uk/wp-content/uploads/2016/09/AP15_04.pdf
- 3 Institute for Government (2017), 'The EU Divorce Bill' URL: <https://www.instituteforgovernment.org.uk/brexit-explained/eu-divorce-bill>
- 4 Office for National Statistics (2017), 'Migration Statistics Quarterly Report: May 2017'. URL: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/may2017>
- 5 SPICe (2016), 'EU Nationals Living in Scotland'; URL: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-86_EU_nationals_living_in_Scotland.pdf