

# What is a fair and effective Act of Parliament?

The criminal law in our country has for long been a mixture of common law principles and decisions by judges, and Statute law where Parliament legislates to clarify and guide common law practice.

There have been various disagreements between the courts and Parliament over the law. In the end Parliament can legislate to change the law for the future despite a previous pattern of judgements or in place of established court principles. In that sense Statute law is superior law.

In effect though courts still retain powers especially if the law may be unclear as drafted by Parliament or it may be unenforceable. Whilst Statute law is usually supreme, both courts and Parliament have to recognise there are limits to their respective powers to move the law in the way they wish.

Today given the fluid and uncertain constitutional background created by Remain campaigners and lawyers, we need to ask are there any limits on what laws Parliament can pass? Let us take three prospective cases of possible Acts of Parliament.

The first, "The Sunny Sundays Act" would widely be recognised as bad law. This Act states the government must ensure every Sunday is sunny so people can enjoy their day off. Any such idea would be void as it is unenforceable, as government does not have the power to ensure it happens.

The second, "The reduction of rough sleeping Act" is a bit more difficult. This Act says that the Prime Minister has to sleep rough once a week until Parliament thinks he or she has done enough to curb rough sleeping and passes a motion accordingly. Surely this too should be void, as it infringes the human rights of the Prime Minister and puts that office holder at security risks out on the streets.

The third is "The breaking of the Prime Minister's promises Act" which requires the Prime Minister to reverse certain specified policies he had set out and campaigned for, because opposition forces in Parliament do not like them. The opposition with a small temporary majority got this through in order to undermine the Prime Minister's popularity. Is this a fair and enforceable Act? Isn't our constitutional way of dealing with a PM who no longer commands a majority to remove him by a vote of No Confidence?

These hypothetical proposals show the difficulties of having a minority government and taking away from it the sole right to initiate legislation. The country can become ungovernable with a headstrong Parliament that cannot supply a majority government yet refuses an election.

---

## Deal or no deal?

The Withdrawal Agreement is unchanged, so I have no need to update my comments on it which set out the problems with it, especially concerning the powers of the ECJ and the money.

The Political Declaration is improved. It now makes it clearer that any joint military actions requires the consent of the UK government. More emphasis is given to basing a future trade relationship around a Free Trade Agreement.

The Declaration whilst confirming we become an independent coastal state for fishing purposes puts our fish back into play with the prospect of a new fishing quota and access based agreement with the EU.

It suggests the future agreement is based on an EU Association Agreement, designed to get countries to converge with the EU prior to joining. This is not a good model. The ECJ remains supreme over issues of EU law in any dispute.

The reworked Northern Ireland protocol raises the issue of how could Northern Ireland extricate from following EU rules and customs practices?

This is an important question, as this draft Withdrawal Treaty does not have an Article 50 allowing unilateral exit .

---

## The Queen's speech

We are getting through the traditional Queen's speech debate this week. Normally it sets out what the government will do over the year ahead, specifying which pieces of legislation they will pass . The Speech also highlights any major events of the diplomatic year, telling us about State visits. It does not go into detail about budgets, departmental spending plans or the day to day business of government.

This Queen's speech debate is like no other I have participated in for one very simple reason. The government advancing it has no majority. Every item in it needing Parliamentary approval will require some opposition MPs to vote for it.

In the debate yesterday I asked the representative of the SNP what they would support amongst the list of Bills in the Speech. None seemed to be the answer. Labour has been a bit more helpful, liking the Domestic Abuse Bill.

There is no point in this Parliament continuing unless sufficient Opposition MPs agree to vote for some of the bills in the Speech. Short of any opposition support the legislative programme is a fantasy list, a list of Bills a future Conservative government would like to put through given a majority to do so.

The present Parliament has substantial negative capability, but is unwilling to come together to achieve anything. That is why we need a General election.

---

## Slowing economy

The latest job figures confirm that the UK economy is slowing as the rest of the world does. The combined impact of the UK's home grown fiscal and monetary squeeze, and of the big fall in worldwide car output and manufacturing more generally is being seen. The poor background of trade wars and new tariffs does not help.

Over the last week the USA has threatened Turkey with higher tariffs in steel and suspension of trade talks. The US-China talks stumble on in the hope that they could at least delay or cancel the next round of US tariff rises mid month this month. The disputes in Kashmir, South Korea-Japan, and US- Iran also continue.

We are told the UK government plans a budget for early November, when they need to provide some stimulus . India, France, China and others have made recent cuts to taxation, which the UK also needs to do.

---

## Deal or no deal?

As some of you only want to write about Brexit, here is your chance. I'm sticking with my view of the problems with the Withdrawal Agreement and the need to propose a Free Trade Agreement.

So what deal or agreement if any would you like the UK to propose during these secret talks?

What Agreement do you think the EU would accept, other than the already drafted Withdrawal Agreement?