

Brexit Workshop: Preparing for food regulatory divergence

15 October 2018



Workshop Objectives

Food Drink Ireland (FDI) hosted a workshop entitled **Brexit: Preparing for food regulatory divergence (A practical workshop for food business operators)** in October 2018. The aim of the workshop was to present members with an indicative list of known areas of regulatory divergence for Food Business Operators (FBO) following the United Kingdom's (UK) exit of the European Union (EU).

Workshop participants were invited to share their own company insights during a number of breakout sessions. An output from this event was the development of a practical checklist of current EU/non-EU legislation that food business operators can begin implementing in preparation for Brexit. Additional considerations/concerns raised during the session were also captured for future consideration.

Please find below the questions/comments raised during the discussions at this event. It should be noted that this document represents a range of questions posed during the workshop event and should not be taken as a comprehensive guidance.

Topics covered during the session include:

[Genetically Modified Organisms \(GMO's\)](#)

[Pesticides and Biocides](#)

[Food Contact Materials](#)

[Producing and Labelling Food](#)

[Food Standards, labelling, durability and composition](#)

[Organic Food](#)

[Food of Animal Origin](#)

[Additional questions discussed during breakout sessions](#)

[Comments/Queries/Concerns raised during breakout sessions](#)

Additional links to the relevant food and drink preparedness notices, from the EU and UK are outlined in [Annex 1](#) and [Annex 2](#) below. Members should note that these notices are subject to change and that these should not be considered complete lists.

Genetically Modified Organisms (GMO's)

In the case of GMO's, Regulation (EC) No 1829/2003 states that authorisation holders must be established in the EU. Applications and notifications for GMO's can also only be submitted to the competent authorities of EU Member States. In a no-deal scenario, the UK will be treated as a third country post-Brexit.

Members are asked to consider whether they use any GMO ingredients/feed in their products and whether these have UK authorisations?

Members operating from the UK are asked to consider whether they plan on making any applications and if so to what Member State?

How is this new process likely to impact timelines for authorisations?

Pesticides and Biocides

Regulation (EC) No 1107/2009 sets out the requirements for placing plant protection products on the market and Regulation (EC) No 396/2005 lays down the maximum residue levels of pesticides (MRLs).

In the case of applications for an active substance or a plant protection product, third countries cannot act as rapporteur Member States, zonal rapporteur Member States or evaluating Member States for MRLs.

For the submission of new applications, members are asked to consider the role of the UK in the process and what impact this is likely to have on the expected timeline of the application?

Members are also asked to consider possible on-going procedures for which the UK is carrying out an assessment or evaluation. How is this likely to impact on your business?

Food Contact Materials

Materials intended to come into contact with food are regulated under Regulation (EC) 1935/2004. This legislation sets out that any material or article intended to come into contact, directly or indirectly with food must be sufficiently inert to prevent substances being transferred to food in large enough quantities that it would endanger human health or change the composition or organoleptic properties of the food.

Applications for the authorisation of food contact materials (FCMs) must be made to a Member State who in turn will inform the European Food Safety Authority (EFSA) of the application. EFSA will then produce an Opinion as to the safety of the use of the FCM.

Are members aware of any authorisations pending that have been submitted via the UK?

Are members sourcing packaging materials from the UK?

Producing and labelling food

Within the EU, the following regulations sets out the rules determining the labelling of food for consumers:

- Regulation (EU) No 1169/2011 - food information to consumers;
- Regulation (EC) No 1924/2006 - nutrition and health claims made on foods;

- Regulation (EU) No 609/2013 - food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control;
- EU legislation on the definition, description, presentation and labelling of spirit drinks, and on honey;

In the case of a hard Brexit the EU-based provisions would all be rolled over, as part of the Withdrawal Act.

At present the UK has its own national, compositional rules that would remain unchanged, examples include specific national rules on products containing meat and the composition of bread and flour. However, a number of changes would need to be implemented to reflect that the UK is no longer a Member State within the EU.

For pre-packed products sold in the UK, the label would need to include the name and a UK address of the responsible food business operator. Similarly, a UK only address would no longer be sufficient for products placed on the market in the EU.

Members are asked to consider whether they have registered addresses, or could work with a distributor in one or both jurisdictions if product is to be sold in both markets?

Have members begun to make changes to label designs to accommodate two addresses?

Food Standards, labelling, durability and composition

In addition to the labelling, EU Food Law lays down rules that certain food must not be placed on the market unless it has been approved by the European Commission, examples include food additives, food flavourings, smoke flavourings, vitamins and minerals used in food, including in food supplements and any novel food. Other foods such as genetically modified foods (GMO) can only be placed on the market if an individual applicant has obtained an authorisation by the Commission.

In addition, certain food is subject to specific composition requirements and EU food law sets limits for contaminants, and maximum residue levels of active substances.

With regard to composition the UK has set out food standards legislation laying down specific requirements for the labelling, composition and, in some cases, safety parameters for specific high value foodstuffs which are potentially at risk of being misleadingly substituted with lower quality alternatives. The foodstuffs for which these standards have been set are:

- bottled water
- bread and flour
- cocoa and chocolate products
- fats and oils
- fish
- fruit juices and nectars
- honey
- jams and preserves
- meat and meat products
- milk and milk products
- soluble coffee
- sugar

A full outline of these compositional requirements can be found in the workshop booklet.

No guidance has been given to date with regard to additives, flavourings, vitamins and minerals used in foods or any novel foods. In the EU all food improvement agents (additives, flavourings and enzymes), must be authorised under the Common Authorisation Policy (CAP) before they can be used in foods via a process of application to the European Commission and subsequently to the European Food Safety Authority (EFSA)

Members are asked to consider the impact of this process in future when the UK is no longer a member of the European Union.

Organic Food

Regulation (EC) No 834/2007 lays down the specific criteria for the production and labelling of organic food within the EU. Only products satisfying the requirements of this Regulation can bear terms referring to the organic production method and use the EU Organic Logo. The labelling of organic food would need to change as the use of the term 'EU' in organic labelling would no longer be allowed for food or ingredients from the UK.

Logos on packaging would need to change as UK organic operators would not be permitted to use the EU organic logo. The UK will allow for a grace period to use up existing stock.

UK businesses would only be able to export to the EU if they were certified by an organic control body recognised and approved by the EU to operate in the UK. To do this, UK organic control bodies will need to apply to the European Commission for recognition. UK control bodies are not permitted to make these applications until the UK becomes a 'third country'. Approval can take up to nine months.

Members are asked to consider whether they are producing organic food using ingredients from the UK?

Have members considered sourcing ingredients from other EU countries or can members wait for UK organic control bodies to apply to the European Commission for recognition?

Have members considered the label changes required if they can no longer market their product as organic?

Food of Animal Origin

The European Commission Brexit Preparedness notice outlines that EU food labelling rules apply to all food placed on the EU market, independently of the place of production of the food. In some instances, EU food law may require some changes of the labelling of food placed on the EU market due to the fact that the United Kingdom (UK) will be a third country as of the withdrawal date. Examples include the following:

- Mandatory presentation of the origin of a food product, where the presentation refers to EU or non-EU;
- Mandatory labelling of the name or business name and address of the EU-27 importer of food from the UK;
- Mandatory health or identification marks according to Article 5 of Regulation (EC) No 853/2004. As of the withdrawal date the health mark or the identification mark shall no longer include the "EC" abbreviation, which is reserved for establishments located in the EU, but shall only include the name of the country (in full or with the ISO two-letter code) where the establishment is located.

Certain products would also require additional label changes. For example, where labels of honey blends from more than one country referring to the EU would need to be replaced with more appropriate terminology.

The UK would replace the requirement for EU/non-EU blended honey indications with 'blend of honeys from more than one country' or similar wording in the domestic honey regulations.

In addition, from April 2020, the country of origin or place of provenance of the primary ingredient of a food (where different to that given for the food overall) will be required on labels as part of EU rules on food labelling. The UK government may seek views on whether similar national rules would be appropriate in the UK when EU rules no longer apply.

Have members considered whether they are using food of an animal origin from the UK as an ingredient in their product?

Are members producing foods of animal origin for export to the EU? In this instance have members considered the change to the health or identification marks required?

Does the country of origin of the product need to be identified as non-EU?

Additional questions discussed during breakout sessions

If product coming from the UK needs EU authorisation, will the reverse also apply?

Are biocidal levels (MRLs) likely to be different in the UK and EU, how will this impact, for example – cleaning standards?

Members discussed the possibility of sourcing pesticides from alternative sources (not the UK).

UK alignment with the EU Single Use Plastic directive, will be particularly important for companies buying plastic from the UK.

Transition period for food contact materials sourced from the UK will need to be clarified.

Chlorates (and other contaminants) members advised to monitor for differing limits.

What will happen voluntary marks, ie quality schemes?

Will BRC be recognised in the EU any longer?

If there are claims certified by BRC, do these need to be re-certified?

Transition times – will produce, ie stocks or ambient and frozen products be allowed to be run off?

Do businesses need to consider doubling their regulatory affairs experts, specifically for the UK and another for Ireland/EU?

Guidance required on the resale of pre-packaged goods from the UK.

The impact on short shelf life product needs to be considered.

Clarification needed around addresses on labels? Does this relate to a company registered office or a manufacturing site?

The Traffic light schemes is a UK notified scheme under FIC. What will its status be in the EU?

Is there the potential for the UK to make it a mandatory requirement?

Similar questions raised about other UK-only schemes?

Comments/Queries/Concerns raised during breakout sessions

There is a preference for one overall competent authority (if possible).

Interpretation and implementation: How will movement of goods into and out of NI be implemented in the future?

Concerns regarding the potential for animal feed with genetically modified ingredients.

Members raised concerns about permissions and certification of pesticides & biocides post-Brexit.

Understanding your supply chain will be important

What are the financial risks of having 2 different regulators (EU & UK)?

Is there likely to be an additional need (and therefore cost) for verification?

Notified bodies - will there be a need to be a block approval of bodies?

3rd party approvals, part of the GFSI?

3rd country certifications, re composite products – is there any certifications required here, challenges for export?

Brexit Preparedness Notices

European Commission Notices



European Commission Brexit Preparedness Notices

The European Commission (EC) has prepared the following Brexit Preparedness notices as a guidance to business operators involved in activities under the scope of specific European Union regulations. Links to relevant food and drink notices, falling under the remit of DG SANTE are outlined below. Members should note that these notices are subject to change and that this should not be considered a complete list.

Plant protection products

https://ec.europa.eu/info/sites/info/files/file_import/plant_protection_products_en.pdf

Q &A on plant protection products and pesticides residues

https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf

Biocidal products

https://ec.europa.eu/info/sites/info/files/file_import/biocidal-product_en.pdf

Q&A on biocides sector

https://ec.europa.eu/info/sites/info/files/qa_biocides.pdf

EU food law

https://ec.europa.eu/info/sites/info/files/file_import/eu_food_law_en.pdf

Animal feed

https://ec.europa.eu/info/sites/info/files/file_import/animal_feed_en.pdf

Genetically modified organisms

https://ec.europa.eu/info/sites/info/files/file_import/genetically-modified_organisms_en.pdf

Exploitation and marketing of natural mineral waters

https://ec.europa.eu/info/sites/info/files/file_import/natural_mineral_waters_en.pdf

Movement of live animals

https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf

Slaughterhouse operators

https://ec.europa.eu/info/sites/info/files/file_import/slaughterhouse_operators_en.pdf

Annex 2

Brexit Preparedness Notices

United Kingdom Notices



United Kingdom Brexit Preparedness Notices

The United Kingdom has prepared the following guidance notices for businesses in the event that the UK leaves the European Union with no deal. Links to relevant food and drink notices are outlined below. Members should note that these notices are subject to change and that this should not be considered a complete list.

Health marks on meat, fish and dairy products

<https://www.gov.uk/government/publications/health-marks-on-meat-fish-and-dairy-products-if-theres-no-brexit-deal/health-marks-on-meat-fish-and-dairy-products-if-theres-no-brexit-deal>

Producing and labelling food

<https://www.gov.uk/government/publications/producing-and-labelling-food-if-theres-no-brexit-deal/producing-and-labelling-food-if-theres-no-brexit-deal>

Food standards: labelling, durability and composition

<https://www.gov.uk/guidance/food-standards-labelling-durability-and-composition>

Producing and processing organic food

<https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-theres-no-brexit-deal/producing-and-processing-organic-food-if-theres-no-brexit-deal>

Importing high-risk food and animal feed

<https://www.gov.uk/government/publications/importing-high-risk-food-and-animal-feed-if-theres-no-brexit-deal-2/importing-high-risk-food-and-animal-feed-if-theres-no-brexit-deal>

Exporting animals and animal products

<https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexit-deal/exporting-animals-and-animal-products-if-theres-no-brexit-deal>

Importing animals and animal products

<https://www.gov.uk/government/publications/importing-animals-and-animal-products-if-theres-no-brexit-deal/importing-animals-and-animal-products-if-theres-no-brexit-deal>

Developing genetically modified organisms (GMOs)

<https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brex-it-deal/developing-genetically-modified-organisms-gmos-if-theres-no-brex-it-deal>

Exporting GM food and animal feed products

<https://www.gov.uk/government/publications/exporting-gm-food-and-animal-feed-products-if-theres-no-brex-it-deal/exporting-gm-food-and-animal-feed-products-if-theres-no-brex-it-deal>

Regulating pesticides

<https://www.gov.uk/government/publications/regulating-pesticides-if-theres-no-brex-it-deal/regulating-pesticides-if-theres-no-brex-it-deal>

Regulating biocidal products

<https://www.gov.uk/government/publications/regulating-biocidal-products-if-theres-no-brex-it-deal/regulating-biocidal-products-if-theres-no-brex-it-deal>

Protecting geographical food and drink names

<https://www.gov.uk/government/publications/protecting-geographical-food-and-drink-names-if-theres-no-brex-it-deal/producing-food-products-protected-by-a-geographical-indication-if-theres-no-brex-it-deal>

Trade marks and designs

<https://www.gov.uk/government/publications/trade-marks-and-designs-if-theres-no-brex-it-deal/trade-marks-and-designs-if-theres-no-brex-it-deal>