

What happens if the UK leaves the EU with no deal?

January 2019, version 1

Introduction

The Government has published a series of technical notes on what could happen to a variety of sectors, processes and procedures if the UK leaves the EU with no deal. This is a brief summary of the notices relevant to land and farming businesses. There is more detail on the Government website and it is strongly advised that businesses take professional advice if they think they will be significantly affected if there is no deal.

The technical notes were published in four batches on 23 August 2018, 13 September 2018, 24 September 2018 and 12 October 2018¹.

A 'no deal' scenario is one where the UK leaves the EU and becomes a third country at 11pm GMT on 29 March 2019 without a Withdrawal Agreement and framework for a future relationship in place between the UK and the EU².

In a 'no deal' scenario there would therefore be no agreement to apply any of the elements of the Withdrawal Agreement. The EU intends to treat the UK as a third country for all purposes, including applying regulations and tariffs, customs controls and sanitary standards at borders.

The Government says that it is unclear what mitigation measures the EU might choose to adopt, if any, to maintain stability for a temporary period.

Farming, forestry and rural development

Farm payments if there's no Brexit deal

- Support for UK farming will remain at the same cash total until the end of this parliament, expected in 2022, including funding provided under Pillar 1 and Pillar 2. However, this is caveated by the current level of funding for Pillar 1 only being guaranteed until 2020.
- Farmers will have to comply with the same standards as they do currently, including inspections, until new British agricultural policies are introduced.

Buying and selling timber if there's no Brexit deal

- For trade with the EU, EU law will no longer apply and the UK will implement its own UK timber regulation and forest law enforcement, governance and trade (FLEGT) regulations, which will have the same requirements as the EU regulations.
- Businesses importing timber from the EU and EEA and placing it on the UK market would have to exercise due diligence to demonstrate that they are importing legally harvested timber.
- A challenge may be monitoring organisations. Both the UK and EU have said they will not recognise the others' organisations.
- There will be no changes for businesses importing from outside the EU and internal UK trade.

¹ All of the technical notices were 'updated' on 20 December and the wording that said a no-deal Brexit was "unlikely" removed, on the orders of the Department for Exiting the European Union (DEXEU). The decision came after the Cabinet agreed that a no-deal Brexit should become an "operational priority".

² It is only at the point that the UK Parliament has ratified the deal and the EU Council has obtained the European Parliament's consent and adopted the decision to conclude the agreement that it will be certain that the UK will not enter a 'no deal' scenario in March 2019.

Rural development funding if there's no Brexit deal

- Any projects where funding has been agreed before the end of 2020 will be funded for their full lifetime until they finish.
- Schemes will remain open to new applications during 2019 and 2020.
- This includes European Regional Development Fund projects and European Social Fund projects.
- If the UK leaves the EU without a deal, the Government has said it would ensure an uninterrupted flow of funding to farmers, rural businesses and communities, administered through existing national and local arrangements.

EU-funded programmes if there's no Brexit deal

- The Government has guaranteed funding for EU projects if there's no Brexit deal for:
 - Any funding awarded while the UK remains in the EU (so until 29 March 2019).
 - Any funding awarded where UK organisations are able to participate as a third country until the end of 2020.
 - The full 2014-20 Multiannual Financial Framework allocation for structural and investment funds.

Genetically modified organisms if there's no Brexit deal

- All current EU requirements would be maintained across the UK in equivalent terms³.
- The release of GMOs would continue to require prior authorisation, and this would only be granted if there are no safety concerns.
- Regulatory decisions on proposed GMO trials will continue to be made within the UK on a devolved basis, as they are now.
- Regulatory decisions on marketing GMOs will be made within the UK rather than at EU level, but the same risk assessment process will be applied. This may happen on a UK-wide basis or separately in England, Wales, Scotland and Northern Ireland.

Exporting animals and animal products if there's no Brexit deal

- Unless the EU decides to list the UK as a recognised third country, exports of animals and animal products would stop as UK transport documentation would not be recognised.
- NFU President Minette Batters said "a no deal scenario would be catastrophic for British agriculture", with farmers facing "an immediate trade embargo for many of their products".
- The Food & Drink Federation said if the UK were to waive checks on imports, as has been suggested, it would face legal challenges in the WTO, "while considerably undermining our reputation with the bloc's 163 other members."

Importing animals and animal products if there's no Brexit deal

- There would be no change to the UK's import requirements from the EU.
- The UK will have to develop an alternative to the EU's import notification system, TRACES. The Government says that the new system will replicate TRACES's functionality, be available for early testing in January 2019 and be fully operational from the day the UK leaves the EU.
- UK transporters wishing to transport live animals in the EU would need to appoint a representative within an EU member state and apply to their relevant government department to obtain a valid Transporter Authorisation, Certificate of Competence, Vehicle Approval Certificate and, where necessary, a Journey Log.
- There will be an increase in the number of consignments requiring import control checks at Border Inspection Points.

³ It is unclear how the current debate in the UK about gene-editing would affect this position.

Manufacturing and marketing fertilisers if there's no Brexit deal

- The current domestic framework allowing fertilisers to be sold in the UK will remain in place, as it is separate from the EU framework.
- There will be a suitable time-limited adjustment period during which 'EC fertiliser' can be placed on the UK market as it can be now to ensure continued supply. This would mean UK or EU manufacturers would not have to change their labels immediately.

Breeding animals if there's no Brexit deal

- Automatic entitlement to enter breeding animals into an equivalent breeding book in the EU would end.
- A UK breed society or breeding operation that meets equivalence requirements to EU breeding programmes and rules of procedure would be treated as a third country breeding body by the EU, which would allow it to enter pedigree breeding animals into equivalent EU breeding books or registers as they can now.
- The arrangements for EU-recognised breed societies and operations operating in the UK would not change initially. They would continue to have access to the UK in the same way as they do now.

Regulating pesticides if there's no Brexit deal

- There is no change to policy intended but divergence from EU legislation would be possible in the future.
- Currently, Plant Protection Products (PPPs) are subject to EU regulations in terms of their approval, Maximum Residue Levels (MRLs) and ensuring their sustainable use.
- In a no deal scenario, the UK would establish an independent standalone PPP regime, with all decision making repatriated from the EU to the UK.
- The UK intends to retain the two main EU regulations in national law, to ensure continued levels of protection for human health and the environment, as well as making it straightforward for businesses to put products on the market (although they would need authorisation in both the UK and EU), and ensuring UK businesses and individuals can continue to access a range of pesticides.

Food and feed safety risk assessment and management if there's no Brexit deal

- Food and feed safety risk assessment in the EU is undertaken by the European Food Safety Authority (EFSA) and risk management decisions are principally taken by the European institutions, in conjunction with member states.
- Standards that apply to food and feed safety at the point of exit will be maintained, through a UK application process, that will be similar to that operated by the EU.
- The Food Standards Agency (FSA) is increasing its capacity to conduct food and feed safety risk assessments and provide risk management advice. Preparations for the FSA to undertake this work are already underway.

Food and animal products

Producing and labelling food if there's no Brexit deal

- EU-based provisions would all be rolled over, as part of the Withdrawal Act, and fixed where necessary by statutory instrument so the rules apply as before.
- However, some changes would be required to reflect the fact that the UK will no longer be a member of the EU, such as changing the label of the country of origin of the food and the address of the food producer (i.e., an EU address alone would no longer be valid for the UK market, so an UK one would also be needed). This can be done by setting up a UK (or EU) hub or working with an importer. An UK address together with an EU address on the label would mean that the label is valid for both the UK and EU markets.
- The UK Government will consult on allowing food with an EU address to be placed on the UK market for up to six months after Brexit, to reduce any disruptions.

- Natural Mineral Water produced in the UK may no longer be accepted in the EU, and UK producers may have to apply for recognition of their water through an EU Member State.

Producing and processing organic food if there's no Brexit deal

- There is no plan to introduce substantive policy changes.
- The certification and traceability of organic food and feed products will continue to be required.
- The UK expects to continue to accept EU organic products.
- 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; this approval process can take up to 9 months so alternative approaches are being explored.

Protecting geographical food and drink names if there's no Brexit deal

- Producers in the EU can protect the names of their products under geographic indication (GI) regulations put in place by the EU. There are currently 86 GI-protected UK product names, comprising 76 agricultural and food products, five wines and five spirit drinks which together make up a quarter of the value of UK food and drink exports.
- The UK intends to set up its own GI schemes which will be WTO compliant and broadly mirror the current EU regime. All 86 products that are currently GI-protected will be given new UK GI status automatically. They are also expected to continue to be protected by the EU's GI schemes; if this is not possible, UK producers can apply for EU GI-protection using the existing third country system.
- The UK is aiming to protect UK GIs within any free trade and other sectoral agreements it agrees.
- The UK would no longer be required to recognise EU GI status and EU producers would be able to apply for UK GI status.

Environment

Upholding environmental standards if there's no Brexit deal

- The UK government is committed to maintaining environmental standards after we leave the EU, and will continue to uphold international obligations through multilateral environmental agreements.
- The EU Withdrawal Act 2018 will ensure all existing EU environmental law continues to operate in UK law. It will be amended over time to ensure the legislative framework for England (and environmental matters that are not devolved) delivers the Government's aim to be the first generation to leave the natural environment in a better state than it inherited it.
- The Government intends that the following three environmental assessment regimes will continue to operate after March 2019:
 - Environmental Impact Assessment (EIA)
 - Strategic Environmental Assessment (SEA), for plan-making in the planning process; and
 - Hazardous Substances Regulations

Meeting climate change requirements if there's no Brexit deal

- There is no change to the UK's 'deep' commitment to domestic and international efforts to tackle climate change. The UK will remain a party to international climate change agreements and its commitment to them will remain as strong as ever and will be unaffected by EU exit.
- The UK's Climate Change Act is domestic legislation and will be unaffected by exiting the EU.
- The UK will be excluded from participating in the EU Emissions Trading System in a 'no deal' scenario. If this happens, the UK government will initially meet its existing carbon pricing commitments via the tax system, taking effect in 2019.
- After Brexit, the UK will keep step with equivalent standards on ecodesign and energy labelling wherever possible and appropriate, or even exceed them where it is in the UK's interest to do so.

Trade

Trading with the EU if there's no Brexit deal

- The free circulation of goods between the UK and EU would cease, and trade would happen on the same terms as with a country outside of the EU, including import declarations, customs checks and customs duties.

Trading under the mutual recognition principle if there's no Brexit deal

- Some manufactured goods are subject to national regulations rather than EU-wide rules. Examples include furniture, textiles, bicycles, and cooking utensils. This is not an exhaustive list. These non-harmonised goods can circulate on the EU market under the mutual recognition principle. This principle prevents EU countries from prohibiting the sale of goods that have already been legally sold in another EU country. This applies even where countries have different national requirements covering the same good.
- After March 2019 if there's no deal, the UK would no longer fall within the scope of the mutual recognition principle.
- UK businesses exporting non-harmonised goods to the EU market will need to consider the national requirements of the first EU country they export to.

Existing free trade agreements if there's no Brexit deal

- As a member of the EU, the UK currently participates in around 40 free trade agreements with over 70 countries, and around 12% of the UK's total trade happens through these agreements.
- If there is a deal with the EU, the UK wants to continue to use EU trade agreements during any implementation period.
- If there is a no deal with the EU, the government will seek to agree trade agreements with third countries which replicate existing EU agreements as far as possible, as soon as possible. NB There will be no implementation period.
- Until a trade agreement is reached, trade will take place on a 'Most-Favoured Nation' (MFN) basis, sometimes referred to as World Trade Organization (WTO) terms.

Telecoms, data, road haulage, energy, plants, veterinary medicines, chemicals

What telecoms businesses should do if there's no Brexit deal

- The government is planning to amend references within the UK's regulatory framework to EU bodies, processes and legislation, to ensure that the regulatory framework remains operable.

Data protection if there's no Brexit deal

- There would be no immediate change in the UK's own data protection standards. This is because the Data Protection Act 2018 would remain in place and the EU Withdrawal Act would incorporate the General Data Protection Regulation (GDPR) into UK law to sit alongside it.

Commercial road haulage in the EU if there's no Brexit deal

- The UK's aim is to maintain existing levels of transport connectivity with the EU without the need for new transport documents or systems.
- However, UK hauliers will not be able to rely on automatic recognition by the EU of UK-issued Community Licences, although EU countries may choose to recognise UK-issued licences.

- Hauliers may be able to rely on the European Conference of Ministers of Transport (ECMT) permit scheme that allows UK hauliers to carry goods to or through 43 countries (including all EU countries except Cyprus). However, there is a limited number of permits available to the UK.
- The UK wants to agree new bilateral agreements with EU countries to provide haulage access.
- Although UK drivers should be able to continue driving in EU countries, they may require an International Driving Permit appropriate for the countries to be visited – for both commercial and private purposes.

Trading electricity if there's no Brexit deal

- The UK's electricity markets are currently integrated ('coupled') into those of the EU, with common rules governing their operation.
- Significant cross-border flows of electricity take place between continental Europe and all parts of the UK.
- If there is no deal with the EU, European energy law will no longer apply and the UK's electricity markets will be decoupled from the Internal Energy Market.
- The Government's intention is that it wants the current process and access rules to continue as far as is possible.
- The Government is aiming to take all possible measures to maintain the Single Electricity Market in Ireland but accepts that there is a risk that it will be unable to continue. It says that separate Ireland and Northern Ireland markets will be less efficient, with potential effects for producers and consumers on both sides of the border.

Generating low-carbon electricity if there's no Brexit deal

- The UK will continue to recognise Guarantees of Origin issued in EU countries. These are public statements that set out the different types of energy sources contributing to the overall fuel mix.
- However, the EU will no longer recognise UK-issued Guarantees of Origin, which may 'compromise' existing contracts with EU countries' electricity suppliers or traders, so generators 'may wish to consider how they market their exports'.

Importing and exporting plants if there's no Brexit deal

- Currently there are no border controls on most imports and exports of plants and plant products between the UK and the EU.
- Some plants and plant products that present a higher biosecurity risk are managed under the EU plant passport regime. The UK would be treated as a third country and would lose access to the EU plant passport regime, and would need to meet EU third country import requirements to export controlled plants and plant products to the EU, including controls on all plants for planting and all wood packaging material. Under this process, businesses need to apply for a Phytosanitary Certificate (PC) from the relevant UK plant health authority before they can export.
- Imports from the EU should continue to enter the UK from the EU freely, as they do now, apart from for some that are not considered low risk.
- Plants moving within the UK would be covered by a new UK plant passport regime, which will replace the current EU plant passport regime.

Registration of veterinary medicines if there's no Brexit deal

- The mutual recognition of batch testing of veterinary medicines between the UK and EU / EEA would cease on the date the UK leaves the EU.
- However, the UK's aim is for no change to current operating procedures. Therefore the UK will, for a time limited period, continue to accept batch testing of veterinary medicines carried out in EU / EEA or any third countries with whom the EU has made arrangements.

Accessing animal medicine IT systems if there's no Brexit deal

- The sharing of common systems, and exchange and recognition of data submitted for regulatory activities, between the UK and EU Member States would cease and the UK's Veterinary Medicines Directorate (VMD) will set up independent processes and systems for the UK before 29 March 2019.

Regulating chemicals (REACH) if there's no Brexit deal

- The main piece of legislation is REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals). REACH requires EU companies to register chemicals with the European Chemicals Agency (ECHA) before placing them on the market and puts in place additional regulatory controls on hazardous chemicals.
- The UK will replace EU legislation, via the EU Withdrawal Act, to establish a UK regulatory framework that would preserve REACH as far as possible, including information requirements. The Health and Safety Executive (HSE) will be the lead UK regulatory authority.
- UK companies registered with REACH will no longer be able to sell into the EEA market without transferring their registrations to an EEA-based organisation.
- Imports of chemicals from an EEA country will face new registration requirements.
- The UK has said that it would not be legally committed to medium- or long-term regulatory alignment with the EEA.

Ireland

The Irish government has said that it would need to discuss arrangements in the event of no deal with the European Commission and EU Member States.

<https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>

Contact us:

James Farrell

Land Management

01423 706770

james.farrell@struttandparker.com

Jason Beedell

Research department

020 7318 4757

jason.beedell@struttandparker.com

Offices

London Head Office	020 7629 7282
Ascot	01344 876 363
Banbury	01295 273 592
Banchory	01330 824 888
Cambridge	01223 459 500
Canterbury	01227 451 123
Chalfont St Giles	01494 871 991
Chelmsford	01245 258 201
Chester	01244 354 888
Chichester	01273 832 602
Cirencester	01285 659 661
Edinburgh	0131 226 2500
Exeter	01392 215 631
Farnham	01252 821 102
Gerrards Cross	01753 891 188
Guildford	01483 306 565
Harpenden	01582 764 343
Harrogate	01423 561 274
Haslemere	01428 661 077
Horsham	01403 246 790
Inverness	01463 719 171
Ipswich	01473 214 841
Lewes	01273 475 411
Ludlow	01584 873 711
Market Harborough	01858 433 123
Moreton-in-Marsh	01608 650 502
Morpeth	01670 516 123
Newbury	01635 521 707
Northallerton	01609 780 306
Norwich	01603 617 431
Odiham	01256 702 892
Oxford	01865 366 700
Pangbourne	0118 984 575
Perth	01738 567 892
Salisbury	01722 328 741
Sevenoaks	01732 459 900
Shrewsbury	01743 284 204
St Albans	01727 840 285
Stamford	01780 484 040
Sunningdale	01344 623 411
Winchester	01962 869 999
Windlesham	01276 489 500

Contacts

Land Management

James Farrell BSc(Hons) MRICS FAAV
01423 706770
james.farrell@struttandparker.com

Farming

Will Gemmill BSc FAAV MBPR (Agric)
01223 459471
will.gemmill@struttandparker.com

Development & Planning

Simon Kibblewhite BSc(Hons) BA FRICS MCIArb
020 7318 5177
simon.kibblewhite@struttandparker.com

Accounting and Taxation Services

Alex Heffer, BA(Hons) ACCA
01245 254656
alex.heffer@struttandparker.com

Building Surveying

Tony Saffery MRICS
01483 303098
tony.saffery@struttandparker.com

National Estate Agency

Guy Robinson
020 7318 5175
guy.robinson@struttandparker.com

Estate & Farm Agency

Michael Fiddes
01223 459505
michael.fiddes@struttandparker.com

Health & Safety

Robert Gazely, BA (Hons) MSc
01245 254611
robert.gazely@struttandparker.com

Energy

Alexander Creed BSc(Hons) MRICS FAAV
020 7318 5022
alexander.creed@struttandparker.com