

Labelling tobacco products and e-cigarettes if there's no Brexit deal

Summary

How tobacco products and e-cigarettes will be regulated if the UK leaves the EU with 'no deal'.

Detail

Find out about changes to regulation, including picture warnings for tobacco products and the notification process for tobacco products and e-cigarettes if the UK leaves the EU in March 2019 with 'no deal'.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an overarching framing notice explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

The purpose of this notice is to provide information to organisations, businesses and members of the public concerned with tobacco and related products, regarding changes to the regulation of such products in the unlikely event that the UK leaves the European Union (EU) in March 2019 with no agreement in place. Tax issues fall outside the scope of this notice.

Current context

Current regulations for tobacco and related products are designed to promote and protect the public's health. The government's priority is to maintain the same high standards after the UK leaves the EU.

Some of the UK law which regulates tobacco products and e-cigarettes implements the Tobacco Products Directive 2014/40/EU and the Tobacco Advertising Directive 2003/33/EC, as well as a number of delegated and implementing acts made under the Tobacco Products Directive. All relevant EU legislation is listed at the end of this notice.

EU-derived policy and legislation regarding tobacco and related products cover areas including:

- control of sale of products
- advertising
- product standards (such as ingredients of products and their emissions)
- and packaging.

The Tobacco Products Directive also sets reporting requirements for tobacco products and e-cigarettes. Manufacturers must submit specified information on ingredients and emissions for products before they are placed on the market.

What would happen in a March 2019 'no deal' scenario?

If the UK leaves the EU in March 2019 with no agreement in place, the Tobacco Products Directive and the Tobacco Advertising Directive would no longer directly apply to the UK.

The UK domestic law that implements these directives, such as the Tobacco and Related Products Regulations 2016, would remain in force, with minor amendments to ensure it still works effectively after EU exit. These amendments would be brought in through regulations made under the EU (Withdrawal) Act powers and would come into force on exit day.

The amendments to UK tobacco legislation would include giving the UK government the power to update the legislation in response to emerging threats, changing safety and quality standards, and technological advances. These updating powers are likely to have minimal impact on industry. Their purpose is to make sure that the UK is still able to make technical changes after we leave the EU, where needed.

Implications for businesses and stakeholders

If there's no deal, we would:

- create new domestic systems to allow producers to notify tobacco products and e-cigarettes in accordance with existing rules. Manufacturers will need to submit information on the new systems for any new products that they wish to sell in the UK
- introduce new picture warnings for tobacco products as the copyright for the existing picture library is owned by the European Commission. Manufacturers will need to ensure that tobacco products which include picture warnings produced from Exit Day onwards will be labelled with the new picture warnings.

We will be consulting on the technical details of both these issues in September to ensure that changes are simple and effective, to minimise the burden of any changes.

Inevitably, under a 'no deal' scenario the close working relationships that exist with our European partners would not be the same. The UK will, of course, continue to play an active role in the World Health Organisation Framework Convention on Tobacco Control.

Further information

Further information on new systems for notification and picture warnings will be provided as part of the consultation and also when the new legislation is introduced.

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are

co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU Member States. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.

Relevant EU Legislation

Directives

- Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products
- Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products

Delegated Directive

- Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products

Implementing Decisions and Regulation

- Commission Implementing Decision (EU) 2015/1735 of 24 September 2015 on the precise position of the general warning and the information message

on roll-your-own tobacco marketed in pouches (notified under document C(2015) 6455)

- Commission Implementing Decision (EU) 2015/1842 of 09 October 2015 on the technical specifications for the layout, design and shape of the combined health warnings for tobacco products for smoking
- Commission Implementing Decision (EU) 2015/2183 of 24 November 2015 establishing a common format for the notification of electronic cigarettes and refill containers
- Commission Implementing Decision (EU) 2015/2186 of 25 November 2015 establishing a format for the submission and making available of information on tobacco products
- Commission Implementing Decision (EU) 2016/586 of 14 April 2016 on technical standards for the refill mechanism of electronic cigarettes
- Commission Implementing Regulation (EU) 2016/779 of 18 May 2016 laying down uniform rules as regards the procedures for determining whether a tobacco product has a characterising flavour
- Commission Implementing Decision (EU) 2016/786 of 18 May 2016 laying down the procedure for the establishment and operation of an independent advisory panel assisting Member States and the Commission in determining whether tobacco products have a characterising flavour
- Commission Implementing Decision (EU) 2016/787 of 18 May 2016 laying down a priority list of additives contained in cigarettes and roll-your-own tobacco subject to enhanced reporting obligations