

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

Summary

How businesses producing, registering, importing or exporting chemicals would be affected if the UK leaves the EU with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect businesses producing, registering, importing or exporting chemicals. This includes a range of controls including labelling and packaging.

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](<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario>) 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

This notice sets out how businesses producing, registering, importing or exporting chemicals would be affected if the UK leaves the EU in March 2019 with no deal.

Before 29 March 2019

There is a large body of existing EU law relating to chemicals which protect human health and the environment, as well as enabling products to be placed on the market.

The UK chemicals industry is regulated through a framework largely based on EU legislation. The European Chemicals Agency (ECHA) is the lead body in implementing this framework. The main piece of legislation is REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals). REACH requires EU companies to register chemicals with ECHA before placing them on the market and puts in place additional regulatory controls on hazardous chemicals.

Companies producing and exporting chemicals from outside the European Economic Area (EEA) must comply with REACH by ensuring the EEA-based importer they supply fulfils the requirements of the regulation or procuring the services of an Only Representative (OR). An OR is based in the EEA and acts as an agent to carry out the tasks and responsibilities of importers to comply with REACH. This can simplify access to the EEA market for products from companies outside the EEA, secure the supply and reduce responsibilities for importers.

After March 2019 if there's no deal

In the unlikely event of a no deal, the UK would ensure UK legislation replaces EU legislation via the EU Withdrawal Act, establish a UK regulatory framework and build domestic capacity to deliver the functions currently performed by ECHA. The legislation would preserve REACH as far as possible, while making technical changes that would need to be made because the UK has left the EU.

By doing this the UK would continue to be able to monitor and evaluate chemicals in the UK to reduce the risk posed to human health and the environment. It would also minimise disruption to the supply in chemicals. Existing standards of protection of human health and the environment would be maintained. The Health and Safety

Executive (HSE) would act as the lead UK regulatory authority, from the day the UK leaves the EU, building on its existing capacity and capability.

The new regulatory framework would: enable the registration of new chemicals through a UK IT system that is similar to the existing EU IT system; provide specialist capacity to evaluate the impact of chemicals on health and the environment; ensure sufficient regulatory and enforcement capacity in the HSE, the Environment Agency (EA) and other regulators, enabling them to recommend controls in response to the hazards and risks of substances; and provide for an appropriate policy function in Defra and the devolved administrations.

In a 'no deal' scenario the UK would not be legally committed to medium- or long-term regulatory alignment with the EEA.

Implications

In the unlikely event that the UK leaves the EU without a deal, this would mean:

- Companies registered with REACH would no longer be able to sell into the EEA market without transferring their registrations to an EEA-based organisation. Companies would therefore need to take action to preserve their EEA market access.
- UK downstream users currently importing chemicals from an EEA country would face new registration requirements. Under the UK's replacement for REACH, importers would have a duty to register chemicals. Similarly UK downstream users of authorisations would no longer be able to rely on authorisation decisions addressed to companies in the remaining EEA countries.

Ensuring continued access to the UK market and maintaining existing standards of protection for human health and the environment

The approach set out below is designed to maximise continuity in as light a touch way as possible, consistent with the requirements of REACH that are being brought into UK law through the EU Withdrawal Act. It provides a transition period before full obligations would fall on the importers who would otherwise be most affected.

To ensure continuity for business we would:

- Carry across existing REACH registrations held by UK-based companies directly into the UK's replacement for REACH, legally 'grandfathering' the registrations into the UK regime.
- Set up a transitional light-touch notification process for UK companies importing chemicals from the EEA before the UK leaves the EU that don't hold

a REACH registration. This would reduce the risk of interruption in supply chains for companies currently relying on a registration held by an EEA-based company. This would mean that those UK companies could continue to buy those chemicals from the EEA without any break.

- Carry into the UK system all existing authorisations to continue using higher-risk chemicals held by UK companies.

To ensure we have the information needed to regulate the safe use of chemicals, UK firms would need to take the following action:

- Businesses with existing EU REACH registrations being automatically grandfathered into the UK regime or authorisations would have to validate their existing registration with the UK authority (the HSE), opening an account on the new UK IT system and providing some basic information on their existing registration within 60 days of the UK leaving the EU. This IT system is being tested with a range of different users so that it is ready to support registrations of chemicals in the UK from March 2019.
- Companies with grandfathered registrations would have two years from the day the UK leaves the EU to provide the UK authority (the HSE) with the full data package that supported their original EU registration and is held on the ECHA IT system.
- Businesses that imported chemicals from the EEA before the UK leaves the EU (but who did not have an EU REACH registration), would need to notify the UK authority and provide some basic data on the chemicals within 180 days of the UK leaving the EU, instead of having to undertake a full registration immediately. This would be an interim arrangement for those importers and they would need to move to full registration at a later date following a review of this approach.
- Importing businesses would be responsible for identifying appropriate risk management measures and recommending them to their customers.

If a business wished to place new chemicals on both the EEA and UK markets, in a 'no deal' scenario, they would have to make two separate registrations, one to ECHA and one to the UK. The information and data package needed would be the same for both.

Maintaining or securing EEA market access

UK companies with existing REACH registrations wishing to maintain EEA market access would need to refer to [guidance on the ECHA website](<https://echa.europa.eu/uk-withdrawal-from-the-eu>) on the steps they would need to take. Existing UK registrants would, for example, need to transfer their

registrations to an appropriate EEA-based entity (such as an affiliate or an OR) or develop new working relationships with their EEA customers. This would require action before the UK leaves the EU.

UK companies wishing to register new chemicals for the EEA market after the UK leaves the EU would need to register those with ECHA as they do now, but would need to do so via their EU customers or an OR. Further guidance on how to do this can be [found on the ECHA website](<https://echa.europa.eu/support/getting-started/only-representative>).

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.

Norway, Iceland and Liechtenstein are party to the Agreement on the European Economic Area and participate in other EU arrangements. As such, in many areas, these countries adopt EU rules. Where this is the case, these technical notices may

also apply to them, and EEA businesses and citizens should consider whether they need to take any steps to prepare for a 'no deal' scenario.