

Classifying, labelling and packaging chemicals if there's no Brexit deal

Summary

How the classification, labelling and packaging of hazardous chemicals would be regulated if the UK leaves the EU in March 2019 with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect the classification, labelling and packaging of chemicals.

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

The purpose of this notice is to outline the arrangements that would come into force to regulate chemicals in the unlikely event the UK leaves the EU on 29 March 2019 with no agreement in place, with respect to the Classification, Labelling and Packaging of substances and mixtures regulation (CLP) (Regulation (EC) No 1272/2008).

Before 29 March 2019

The directly-applicable CLP regulation adopts, throughout all EU countries, the UN Globally Harmonised System (GHS) for the classification and labelling of chemicals.

Under CLP chemicals are classified based on their intrinsic hazards – eg, carcinogenic, toxic for reproduction, mutagenic, flammability, toxic for the aquatic environment (not exhaustive). Consideration of the risks or regulatory consequences arising from a hazard are not part of the decision-making process on classification. If a chemical is classified as meeting one of the hazard classes, it must be labelled and packaged accordingly. The process of classification at EU level is dynamic, with changes and revisions being made through Adaptations to Technical Progress (ATPs) at least once a year, to reflect the latest scientific and technical data.

Hazard identification, through CLP, is required to apply a combination of legislative measures through the REACH, Biocidal Products Regulation and Plant Protection Products Regulation to deliver the necessary control measures. Technical Notices have been published for each of these regulations.

Under CLP, suppliers of hazardous chemicals are required to classify (identify the intrinsic hazardous properties), label and package the chemicals they place on the market. Manufacturers and importers are also required to notify details of their classifications to the European Chemicals Agency (ECHA) for inclusion in the Classification and Labelling Inventory.

After March 2019 if there's no deal

The UK would establish an independent standalone chemicals regime. At the time of exit, as the UK would effectively adopt the GHS in the same way as the EU, the UK classification and labelling regime would be based on the existing EU regulatory regime in order to provide continuity for businesses, with amendments to enable functions presently carried out by the EU (including those performed by ECHA),

instead being carried out in the UK by the Health and Safety Executive (HSE). This would mean companies operating in the UK dealing with HSE in place of ECHA.

The majority of CLP would continue to be applied in the UK, so the main duties and obligations on suppliers to classify, label and package hazardous chemicals placed on the market would remain in place. This means the duties on UK manufacturers, importers and downstream users to classify, label and package the substances and mixtures they place on the UK market will remain. This would also be the case for the obligations on those suppliers to identify, examine and evaluate available scientific and information on substances and mixtures where it relates to the possible physical, health or environmental hazardous properties of those chemicals to ensure all the requirements of classification are fulfilled. Suppliers must also comply with mandatory classification and labelling.

All the labelling requirements would remain in place too including the principles of precedence for the different labelling elements, the location of the label on packaging, and exemptions where available. The arrangements for dealing with both transport and CLP labelling are unchanged. You can find an overview of [CLP labelling and packaging](<http://www.hse.gov.uk/chemical-classification/labelling-packaging/index.htm>) on the HSE website and on transport labelling in the [moving dangerous goods](<https://www.gov.uk/guidance/moving-dangerous-goods#marking-and-labelling-of-dangerous-goods---suppliers-responsibilities>) section on GOV.UK.

The packaging requirements stay the same, including those for child resistant closures and tactile warning devices.

The testing arrangements, including the prohibition of testing on humans or non-human primates for the purposes of CLP, will still apply.

Manufacturers and importers will also continue to comply with the duty to notify details of the self-classifications for the substances and mixtures they place on the market. Currently, these notifications are made to the European Chemicals Agency (ECHA). In future, these notifications will be made to HSE.

Implications

Although the existing arrangements would continue to apply, there would be changes, in particular:

- Companies importing chemicals into the UK from EU countries would become importers under CLP and would need to be sufficiently competent to comply with the duties and obligations on an importer, just as they would if importing chemicals into the UK from a non-EU country.
- Companies would interact with HSE for UK CLP functions, for example submission of notifications of classifications of chemicals.
- HSE would act as the CLP competent authority for the UK, on behalf of the Secretary of State and the devolved administrations. Existing harmonised classification and labelling for named substances or groups of substances would continue to have legal effect in the UK. Once we leave the EU, HSE would have the ability to put in place new arrangements for mandatory classification and labelling. These arrangements would allow new and revised classification and labelling to be proposed, considered in liaison with the devolved authorities and adopted for the UK.
- Companies would be required to use new UK arrangements and IT tools provided by HSE. These IT tools would be a UK mandatory classification and labelling list (of substances) and a UK notification database. The new arrangements will be operational after 29 March 2019, if there's no deal.
- Responsibility for chemicals being imported into the EU from the UK would rest with whoever is the EU-based importer – the importer may therefore need details of the chemicals involved from the UK-based company.
- In future, the UK will be free to make its own decisions about chemical hazard classification, including whether or not to align with decisions made in the EU or other countries.

More information

More information and instructions will be published in the coming months. We aim to give businesses and individuals as much certainty as possible as soon as we can, and to ensure that any new requirements are not unduly burdensome.

We also recommend reading the following technical notices:

- [Regulating chemicals (REACH) if there's no Brexit deal](<https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brex-it-deal>)
- Regulating biocidal products if there's no Brexit deal
- Export and import of hazardous chemicals (PIC) if there's no Brexit deal
- Control on mercury if there's no Brexit deal
- Control on Persistent Organic Pollutants if there's no Brexit deal
- Regulating pesticides if there's no Brexit deal

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.