

Regulating pesticides if there's no Brexit deal

Summary

How businesses producing or registering pesticide products 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 or registering pesticide products. This includes controls including regulation of Maximum Residue Levels in foods.

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 outlines the arrangements that would come into force to regulate pesticides in the unlikely event that the UK leaves the EU in March 2019 with no deal.

Plant Protection Products (PPPs) (also known as “pesticides”) are treatments that protect valuable plants such as crops against pests and diseases or prevent the growth of unwanted plants such as weeds. They benefit society by helping UK farming to provide a supply of high quality, affordable food and aid in keeping transport infrastructure, public and amenity spaces and gardens clear of unwanted plants. However, pesticides can also pose risks to the environment and human health and therefore it is essential to have effective regulation in place.

Before 29 March 2019

Currently, PPPs are subject to EU regulations. The EU regime relies on centralised EU processes, EU institutions and the sharing of responsibilities between all EU countries. It comprises of three main measures:

1. Regulation of the placing of PPPs on the market, including the approval of active substances, authorisation of products and the management of associated risks. (EU 1107/2009)
2. Regulation of Maximum Residue Levels (MRLs) of an active substance contained in plant protection products permitted to remain in marketed foods, reflecting the residue arising from the authorised use of PPPs. (EU 396/2005)
3. A framework of action to ensure the sustainable use of pesticides.

After March 2019 if there's no deal

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. We would ensure that a stable regulatory framework for pesticides is put in place from the point we leave the EU by retaining the two main directly applicable EU regulations in national law, through the provisions of the EU Withdrawal Act.

This would 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, and ensuring UK businesses and individuals can continue to access a range of pesticides.

The EU Withdrawal Act ensures that there will be no change to policy. However, in order for the regime to operate in a domestic setting, we are preparing secondary legislation to make some technical corrections.

In the short-term, the UK regime will make changes from the EU regulatory framework only where they are required to operate in a UK-only context. In a 'no deal' scenario the UK would not be legally committed to medium or long-term regulatory alignment with the EU. Divergence from developing EU legislation would be possible in due course.

The technical requirements of the regime would remain the same as they are in current EU legislation, maintaining existing standards of environmental and health protections.

All current active substance approvals, PPP authorisations, and MRLs in place on 29 March 2019 would remain valid in the UK after we leave, so businesses could continue to trade and products would continue to be available.

After we leave the EU, all applications for products to be authorised in the UK, and all active substances and MRLs would be considered under the national regime. The format of applications and basic data requirements would remain the same as under the current regime. Applications for EU approvals would need to be submitted separately to the EU for their consideration (more information on the EU regime can be found at https://ec.europa.eu/food/plant/pesticides_en).

The Health and Safety Executive (HSE) would continue to operate as the national regulator, building on its existing capability and capacity. Applications under the national regime after the UK's departure from the EU would need to be made to HSE, in the same way as now.

The processes currently carried out at EU level, including by the European Food Safety Authority (EFSA), would be converted into national processes and retained as part of the national regime if they are relevant in a UK only context. These would include functions such as considering specific technical issues as specified in the regulations, public consultation, provision for consultation with independent specialists where appropriate, and final decision making. New arrangements for independent scientific assurance would be put in place. Elements of EFSA's role which are designed for an EU context would no longer be required in a national

regime, for example the additional layer of process to review EU countries' risk assessment conclusions, to ensure harmonisation across all EU countries. Currently decisions on active substance approvals and MRLs are given effect through EU tertiary legislation. This would be replaced in the UK by using a new statutory register in the form of a publicly available online database, making it simple to check the official record.

To ensure that processes run smoothly, there would be an extension of three years to active substance approvals which are due to expire in the three years after we leave the EU. This would provide time for establishment of national renewal arrangements (a national renewals programme would need to be developed after exit and put in place by means of further secondary legislation to be made using the powers within the main regulations).

Applications which are being considered by the UK at the point of exit will be progressed to completion under the national regime.

Elements of the current regime, which rely on EU membership, would no longer be able to operate in a no deal scenario e.g. the arrangements whereby EU countries can choose to mutually recognise product approvals and also parallel trade permits. To address this, parallel trade permits in force at the point of exit would remain valid for a transitional period of two years after the date of exit, or the extant expiry date (whichever is sooner). After expiry, businesses would need to obtain authorisations for marketing and use of their products in the UK.

We would also provide a transitional period for seeds which have been treated with PPPs authorised for that use in other EU countries so that they could continue to be lawfully marketed at the point of departure from the EU and could continue to be placed on the UK market for a period of three years after we leave the EU.

Action for business:

- No immediate action is required in respect of current active substance approvals, PPP authorisations, and Maximum Residue Levels (MRLs). These will all remain valid in the UK and EU after exit day as now.
- Start to consider what new applications businesses might wish to make under both the UK and EU regimes in the period after EU exit, and to plan ahead for any applications under each regime relating to renewals of existing approvals and authorisations as they expire over time.
- Keep in touch with HSE as the regulator with respect to any current applications.

Overall these measures ensure that the UK will have a national PPP regulatory regime in place at the point of our departure from the EU. There would be minimal change from the current regulatory system, providing stability as we leave the EU.

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

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](needs link)
- [Classifying, labelling and packaging chemicals if there's no Brexit deal](needs link)
- [Export and import of hazardous chemicals if there's no Brexit deal](needs link)
- [Control on persistent organic pollutants if there's no Brexit deal](needs link)
- [Control on mercury if there's no Brexit deal](needs link)

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.