

## **Meeting climate change requirements if there's no Brexit deal**

### **Summary**

How climate change regulations, emissions trading, ecodesign and energy labelling 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:

- climate change regulations
- emissions trading
- energy using products
- ecodesign and energy labelling

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 aims to support the contingency planning of UK operators of installations (for example, power stations and oil refineries) and UK-administered aircraft operators that currently participate in the EU Emissions Trading System, and other organisations and individuals with accounts within the UK section of the [Consolidated System of European Registries]([https://ec.europa.eu/clima/policies/ets/registry\\_en#tab-0-3](https://ec.europa.eu/clima/policies/ets/registry_en#tab-0-3)) which also includes the UK's Kyoto Protocol National Registry.

It clarifies the implications of the UK leaving the EU on the licensing regime for the geological storage of carbon dioxide; whilst this is not a direct component of the EU Emissions Trading System, the licensing regime for the geological storage of carbon dioxide partly relies on EU Emissions Trading System legislation.

It also outlines the impact on energy-using products that fall under the ecodesign directive and/or energy labelling regulations.

## **Climate change regulations and mechanisms**

### **Before 29 March 2019**

The UK is a global leader in the fight against climate change and we are proud to be the first country to set legally binding targets to reduce greenhouse gas emissions. The UK's Climate Change Act requires us to reduce emissions by at least 80% against 1990 levels by 2050. We have put clean growth at the centre of our modern Industrial Strategy and our Clean Growth Strategy sets out a comprehensive set of policies and proposals that aim to accelerate the pace of clean growth, i.e. deliver increased economic growth and decreased emissions.

The UK is deeply committed to domestic and international efforts to tackle climate change. The UK is a Party, in its own right as well as through the EU, to international climate change agreements, including the Doha Amendment to the Kyoto Protocol and the Paris Agreement.

### *EU Emissions Trading System*

The EU Emissions Trading System is an international, greenhouse gas emissions trading system which applies to multiple sectors. There are around 1,000 installations in the UK which participate in the EU Emissions Trading System, including:

- power stations
- oil refineries
- offshore platforms
- industries that produce iron and steel, cement and lime, paper, glass, ceramics and chemicals.

In addition, approximately 140 UK-administered aircraft operators take part in the EU Emissions Trading System.

Participating operators are required to develop plans to monitor their emissions in accordance with the European Commission's Monitoring and Reporting Regulation. They are also required to produce annual emissions reports that are verified independently in accordance with the [Accreditation and Verification Regulation](<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0600>).

EU Emissions Trading System operators hold EU Emissions Trading System Union Registry accounts which provide them with access to [their emissions allowances]([https://ec.europa.eu/clima/policies/ets/cap\\_en#tab-0-0](https://ec.europa.eu/clima/policies/ets/cap_en#tab-0-0)). At the end of each compliance year, operators must give up from their account one allowance for each tonne of verified carbon dioxide (or equivalent) emitted. Operators who are considered at risk of carbon leakage receive allowances through free allocation (if eligible) from their Member State of predetermined amounts agreed by the EU Commission. Other operators buy allowances on the carbon market or via a government administered auction.

Some UK-based operators falling within the scope of the EU Emissions Trading System Directive are excluded from the scheme through their inclusion in the [UK Small-Emitter and Hospital Opt-Out Scheme](<https://www.gov.uk/government/publications/uk-small-emitter-and-hospital-opt-out-scheme>). Instead of receiving and needing to give up allowances these operators are given emissions targets, these excluded installations pay only for emissions which exceed their target. Targets for excluded installations are set based on the allocation they would receive for free had they remained in the EU Emissions Trading System. Aircraft operators with total emissions below 25,000t or intra EEA emissions below 3,000t may use a simplified verification procedure.

*The Kyoto Protocol*

The Kyoto Protocol established three market-based mechanisms, emissions trading, the Clean Development Mechanism, and Joint Implementation. The Clean Development Mechanism and Joint Implementation provide for the development of projects which are credited with emission reduction units for offsetting greenhouse gas emissions. The UK has established regulatory functions, the Designated National Authority for Clean Development Mechanism projects and Designated Focal Point for Joint Implementation projects, responsible for issuing letters of approval for Clean Development Mechanism and Joint Implementation project activities respectively.

The UK's National Kyoto Protocol Registry is located within the Consolidated System of European Registries and facilitates the trading of Kyoto Protocol emissions units. Holders of accounts within the Registry include:

- actors who trade in Certified Emission Reductions and Emission Reduction Units generated under Clean Development Mechanism, and Joint Implementation
- project developers who secured approval for Clean Development Mechanism projects from the UK's Designated National Authority

### **After March 2019 if there's no deal**

There is no change to the UK's deep commitment to domestic and international efforts to tackle climate change. The UK's Climate Change Act is domestic legislation and will be unaffected by exiting the EU. 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 will therefore continue to take ambitious steps to reduce greenhouse gas emissions, and the UK's Clean Growth Strategy highlights our policies and proposals for doing so.

### *EU Emissions Trading System*

The UK will be excluded from participating in the EU Emissions Trading System in a 'no deal' scenario. This means that current participants in the EU Emissions Trading System who are UK operators of installations will no longer take part in the system and flights within the UK will no longer be covered by EU Emissions Trading System obligations. Flights between the UK and the European Economic Area (EEA) are not expected to be covered by EU Emissions Trading System obligations.

The UK will no longer be responsible for managing the EU Emissions Trading System requirements for the aircraft operators it currently administers. If those aircraft operators continue to fall within the scope of the EU Emissions Trading

System (for example, if they operate intra-EEA flights after exit), these requirements will need to be administered by an EU Member State.

In a 'no deal' scenario, UK government will therefore remove requirements relating to the surrender of emissions allowances. However, to retain as much continuity as possible, UK government intends to maintain Monitoring, Reporting and Verification arrangements.

The [European Commission Regulation 389/2013](<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1536240540224&uri=CELEX:02013R0389-20180101>), as amended by Commission Regulation 2018/208, will invalidate any allowances issued by the UK in 2019 such that they will not have any value on the carbon market.

The UK will not have guaranteed access to the Consolidated System of European Registries which includes the EU Emissions Trading System Union Registry and the UK's Kyoto Protocol National Registry.

## **Implications**

### *EU Emissions Trading System*

The government has taken steps to provide certainty to UK operators in meeting their compliance obligations for the 2018 compliance year. To ensure this will not be affected in a 'no deal' scenario, the government [brought forward the 2018 compliance year deadline](<https://www.gov.uk/government/consultations/bringing-forward-eu-emissions-trading-system-2018-compliance-deadlines-in-the-uk>) in domestic legislation for operators to report their 2018 emissions and surrender allowances for those emissions from 30 March 2019 and 30 April 2019, to 11 March 2019 and 15 March 2019 respectively.

Any EU Emissions Trading System allowances issued by the UK for the 2019 compliance year cannot be used by UK operators to meet their 2018 compliance obligations. Operators will want to consider this when planning to meet their 2018 compliance obligations.

The government will retain the existing financial penalty for failure to surrender allowances for the 2018 compliance year.

As noted above, in a 'no deal' scenario the UK will not have guaranteed access to the Consolidated System of European Registries which also includes the EU

Emissions Trading System Union Registry. UK operators will not have guaranteed access to the UK section of the EU Emissions Trading System Union Registry.

There will be no requirement to surrender EU Emissions Trading System allowances after the 2018 compliance year - the surrender deadline for 2018 emissions is 15 March 2019.

The UK government intends to maintain Monitoring, Reporting and Verification arrangements to ensure continuing transparency over Greenhouse Gas emissions. The Monitoring, Reporting and Verification framework requires all operators to monitor and report on their annual greenhouse gas emissions and produce a verified annual emissions report. Monitoring, Reporting and Verification falls under the devolved competence of environmental policy.

UK operators of stationary installations will continue to report on their emissions. Aircraft operators who will be registered in the UK after exit day will continue to report their emissions on the same flights as required on exit day. Operators in the Small Emitter and Hospital Opt-Out scheme will also continue to report.

There is no immediate action for aircraft operators who will be registered outside the UK after exit day, even if they are currently administered by the UK (but not registered in the UK), as the UK government will not initially place Monitoring, Reporting and Verification requirements on these operators in a 'no deal' scenario.

The current UK regulators will continue to have powers to enforce non-compliance with these ongoing requirements.

### *Carbon pricing*

The UK government currently sets a Total Carbon Price, created by the EU Emissions Trading System and the (Great Britain only) Carbon Price Support mechanism. The UK government announced at Autumn Budget 2017 that the Total Carbon Price was set at the right level and that it would target a similar Total Carbon Price until unabated coal is no longer used.

In a 'no deal' scenario, the UK government will initially meet its existing carbon pricing commitments via the tax system, taking effect in 2019. A carbon price will apply across the UK, including Northern Ireland. The Single Electricity Market is being accounted for in all options.

The UK government will publish more details of how it will initially apply a carbon price in a 'no deal' scenario at Budget 2018 and legislation will be included in the Finance Bill 2018-19.

### *Consolidated System of European Registries*

As noted above, in a 'no deal' scenario the UK will not have guaranteed access to the Consolidated System of European Registries which also includes the UK's Kyoto Protocol National Registry. Loss of access would affect the UK's ability to provide routine and essential administrative support to account holders.

### *Geological storage of carbon dioxide*

Geological storage of carbon dioxide is not a direct component of the EU Emissions Trading System, but there is a legislative link between the licensing regime for the geological storage of carbon dioxide and the EU Emissions Trading System. In a 'no deal' scenario, the licensing regime for geological storage of carbon dioxide would become inoperable as legal consent to undertake storage could not be granted.

The government is planning to restore functionality in areas where the Oil and Gas Authority licenses storage. Elsewhere (that is, in Scotland and Northern Ireland) restoring functionality would require devolved administrations to modify their respective licensing regulations.

## **Actions for businesses and other stakeholders**

### *Operators and traders with EU Emissions Trading System*

Operators and traders with EU Emissions Trading System allowances in their account in the UK section of the Registry should plan for a loss of registry access and consider taking action to manage the risk of this happening. Such action might include opening a second account in another Member State's Registry as part of their contingency planning for a 'no deal' scenario. The risk of loss of registry access should similarly be considered in relation to any open futures, options or other derivative contracts and hedging positions for any allowances in the Registry.

Operators should continue to comply with the EU Emissions Trading System Directive whilst the UK remains a participant. Operators should be prepared to leave the System in the event of a 'no deal' scenario, but plan to comply with Monitoring, Reporting and Verification requirements into the future.

### *Energy intensive industry relief schemes participants*

Businesses that currently benefit from energy intensive industry relief schemes for the indirect policy costs of carbon pricing should continue to comply with the requirements set out in the government guidance for these schemes.

### *Kyoto Protocol National Registry*

As the UK may not be guaranteed access to the Consolidated System of European Registries in a 'no deal' scenario, the UK may not have the ability to provide routine and essential administrative support to holders of accounts in the UK Kyoto Protocol National Registry which is located within the consolidated European system.

The UK government is considering contingency measures for this scenario and will issue further advice later this year. In the meantime:

- account holders who use their accounts to trade Certified Emission Reductions and Emission Reduction Units may want to consider opening an account in another country's registry for this purpose
- Clean Development Mechanism project developers should consider the information in this notice carefully before approaching the UK's Designated National Authority for new letters of approval
- Clean Development Mechanism project developers who have previously received a letter of approval from the UK Designated National Authority may want to consider whether to reapply for a letter of approval from a different Designated National Authority and the timescales for securing this

### *Geological storage of carbon dioxide*

Developers of facilities for geological storage of carbon dioxide in areas where the Oil and Gas Authority is the licensing authority may contact the Oil and Gas Authority for further information about its implementation of changes to the licensing regime, once these changes come into force. Installations do not need to be located inside this area, to access geological storage facilities within this area.

Elsewhere (that is, in Scotland and Northern Ireland) developers should contact the relevant devolved administration to confirm when regulatory updates would be implemented.

### **More information**

BEIS and regulatory authorities will continue to work closely with businesses, trade associations and stakeholders on the implications of a 'no deal' and communicate information and updates online.



Information on the [EU Emissions Trading System and Monitoring, Reporting and Verification]([https://ec.europa.eu/clima/policies/ets/monitoring\\_en](https://ec.europa.eu/clima/policies/ets/monitoring_en)) is available on the European Commission's website.

Immediate queries on the EU Emissions Trading System sections can be directed to the team at BEIS: [eu.ets@beis.gov.uk](mailto:eu.ets@beis.gov.uk)

More information on [geological storage of carbon dioxide](<https://www.gov.uk/guidance/uk-carbon-capture-and-storage-government-funding-and-support>) will be made available on GOV.UK.

More [information about climate change](<https://www.gov.uk/environment/climate-change-energy-emissions>) generally will also be provided on GOV.UK.

## **Energy-using products: ecodesign and energy labelling**

### **Before 29 March 2019**

In the UK, the Department for Business, Energy and Industrial Strategy (BEIS) has lead responsibility for improving the sustainability and energy efficiency of energy-using products in households and the commercial sector. This is achieved by [EU Ecodesign]([http://ec.europa.eu/growth/industry/sustainability/ecodesign\\_en](http://ec.europa.eu/growth/industry/sustainability/ecodesign_en)) and [Energy Labelling](<https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficient-products>) measures which are enforced under domestic law ([Ecodesign for Energy-related Products Regulation 2010](<https://www.gov.uk/guidance/placing-energy-related-products-on-the-uk-market>) and [Energy Information Regulations 2011](<https://www.gov.uk/guidance/the-energy-labelling-of-products>)).

Each EU Member State must appoint a Market Surveillance Authority (MSA) for control and enforcement activities. In the UK, for ecodesign, this is the Office for Product Safety and Standards, and for energy labelling, both the Office for Product Safety and Standards and Trading Standards (in GB) and the Department for the Economy (in NI).

The EU product database is a new online portal that will come into force from 1 January 2019. It will have an 'open' section for consumers to view product-related

information and a 'closed' compliance section for Market Surveillance Authorities to view technical product-related information.

Suppliers are required to input relevant information into the database:

- from 1 January 2019 for energy-using products placed on the EU market from this date
- by 30 June 2019 for energy-using products placed on the EU market (including the UK market) between 1 August 2017 and 1 January 2019

A re-classification of energy labels is scheduled and new labels with A – G energy rating classes (instead of A+++ – G energy rating classes) will be phased in over time as planned.

### **After March 2019 if there's no deal**

For ecodesign and energy labelling regulations which will enter into force and apply before the point of exit, regulatory alignment will be maintained by bringing relevant EU regulations into domestic law.

After the point of exit, the UK will keep step with equivalent standards wherever possible and appropriate, or even exceed them where it is in the UK's interest to do so.

### **Implications**

There will be no immediate change to trading practices.

Enforcement activities will continue as normal, carried out by the Office for Product Safety and Standards, Trading Standards and the Department for the Economy (NI) which will maintain their roles as Market Surveillance Authorities.

### **Actions for businesses and other stakeholders**

In terms of the EU product database:

- all consumers will still have access to the 'open' section of the database
- however, the UK's Market Surveillance Authorities will no longer have access to the 'closed' compliance section of the database.

There will be changes for UK and EU suppliers regarding the EU product database. UK and EU suppliers placing relevant energy-using products:

- on the EU market will have to enter relevant information into the database.
- on the UK market will not be required, under domestic law, to enter relevant information into the database, including for those products placed on the market between 1 August 2017 and 1 January 2019 after the point of exit.

UK and EU suppliers must ensure that relevant energy-using products:

- placed on the UK market comply with minimum UK ecodesign and energy labelling standards.
- placed on the EU market comply with minimum EU ecodesign and energy labelling standards.

UK and EU retailers must ensure that relevant energy-using products:

- placed on the UK market comply with minimum UK energy labelling standards.
- placed on the EU market comply with minimum EU energy labelling standards.

There will be no immediate impact on UK or EU consumers in regard to ecodesign and energy labelling standards.

### **More information**

For additional information regarding goods, please refer to technical notices:

- [Trading under the mutual recognition principle if there's No Brexit deal](<https://www.gov.uk/government/publications/trading-under-the-mutual-recognition-principle-if-theres-no-brexite-deal>); and
- [Trading goods regulated under the new approach if there's No Brexit deal](<https://www.gov.uk/government/publications/trading-goods-regulated-under-the-new-approach-if-theres-no-brexite-deal>)
- [Appointing nominated persons to your business if there's no Brexit deal](<https://www.gov.uk/government/publications/appointing-nominated-persons-to-your-business-if-theres-no-brexite-deal>)

More information on the [Office for Product Safety and Standards](<https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>) can be found on its website.

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.