

## **Exporting GM food and animal feed products if there's no Brexit deal**

### **Summary**

How businesses that hold or seek authorisations for GM food or feed or animal feed additives, or export animal feed to the EU, will be affected 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 businesses that:

- hold or seek authorisations for genetically modified (GM) food or feed
- hold or seek authorisations for animal feed additives
- export animal feed products to the EU
- have applications to update the list of feed for particular nutritional purposes (PARNUTS) pending at the time of EU exit
- represent companies based outside the EU that rely on UK representation for EU trade

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 aim of this notice is to provide information to certain businesses on action they would need to take before EU exit to ensure that trade can be maintained in a 'no deal' scenario. It's specifically aimed at UK businesses:

- holding or seeking authorisations for genetically modified (GM) food or feed
- holding or seeking authorisations for animal feed additives
- exporting animal feed products to the EU
- that have applications to update the list of feed for particular nutritional purposes [(PARNUTS)](<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02008L0038-20141112>) pending at the time of EU exit
- that represent companies that are based in non-EU countries which rely on UK representation for EU trade

This notice provides an explanation of the relevant legislative requirements, including having a representative or being established in one of the countries of the European Union or European Economic Area (EEA). The EEA includes Iceland, Liechtenstein and Norway. The role of the representative is to provide assurance that the non-EU establishment complies with EU legislation.

## **Before 29 March 2019**

EU legislation as it applies to certain categories of food and feed (including GM food/feed, animal feed, feed additives etc.) includes conditions on where businesses can be established. Details of current requirements which apply are detailed below.

### ***GM food/feed***

EU GM food/feed authorisation holders, or those in the process of seeking authorisation, must be established in the EU or EEA (Regulation (EC) No 1829/2003, Article 4(6)). Businesses not based in the EU will need to designate a representative who is based in the EU or EEA.

## ***Animal feed***

In 2018, the Commission advised that all businesses importing feed products from non-EU countries to the EU now require a representative within the EU or EEA. Previously, this requirement applied only to certain feed products from non-EU countries (Regulation (EC) 183/2005, Article 24, which refers to the conditions for imports of feed laid down in Article 6 of Directive 98/51/EC).

For feed additive authorisations linked to a specific authorisation holder, the holder must either be established in the EU or EEA, or designate a representative established within the EU or EEA (Regulation (EC) No 1831/2003, Article 4(3)) – these are authorisations relating to zotechnical, coccidiostats and histomonostats, and GM additive categories.

Updates to the list of uses of [PARNUTS](<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02008L0038-20141112>) can only be initiated by an application to the European Commission from either a natural or legal person established in the EU or EEA or from an EU country (Regulation (EC) No 767/2009, Article 10).

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

If the UK leaves the EU in a 'no deal' scenario, businesses within the scope of this notice will need to be established in the EU or EEA, or have a representative that is established in the EU or EEA if they wish to trade in the EU. Businesses should also consider the implications below where the business currently acts as representatives for companies in non-EU countries or are not established in the EU or EEA.

## **Implications**

UK exporters of feed products to the EU will require representation in the EU or EEA. As a guide only, current UK procedures on becoming a representative are available on the [Food Standards Agency website](<https://www.food.gov.uk/business-guidance/third-country-representation-for-animal-feed-businesses>). EU countries will each have their own systems for this and businesses should consult with the relevant competent authority in the EU country for further advice on gaining recognition for their representative.

The requirement for non-EU country representation would apply to all feed products exported to the EU. This follows the European Commission's announcement of a revised interpretation of Regulation (EC) 183/2005, Article 24. The Food Standards Agency is currently seeking clarity on this interpretation but companies should

nevertheless anticipate this revised interpretation and consider designating a representative within the EU or the EEA.

UK businesses holding EU authorisations for GM food or feed, or for animal feed additives, will need to designate a representative established in the EU or EEA. You will need to provide details of the representative to the European Commission. This could be a branch of your business which is established in the EU or EEA or another business.

Changes to holder-specific authorisations for GM food or feed or for feed additives require amendments to EU legislation which would need to be in place by 29 March 2019. Businesses in the process of such changes would need to approach the European Commission without delay.

UK businesses that have applied for EU authorisation of GM food or feed; feed additives; or updates to the list of PARNUTS, and whose application is still being processed at the time of a UK 'no deal' exit from the EU, if they wish for the application(s) to continue, will need to designate a representative established within an EU country or the EEA. The business would also need to provide details of the representative to the European Commission. For feed additives, this applies to both generic authorisations and those linked to a specific authorisation holder.

UK businesses acting in the role of a representative(s) for establishments in non-EU countries to enable them to export feed product to the EU, will need to inform the establishments they represent that they will no longer be able to act as their representative and advise them that they will need to appoint a representative based in an EU country or the EEA.

### **Appointing a representative:**

When appointing a representative, UK businesses should ensure that the potential representative is based in one of the 27 EU countries, or an EEA country, and that the potential representative is able to provide the necessary assurance to act as such. When appointed, the representative needs to submit a request to the appropriate competent authority in the EU country or EEA state in which they are based. The UK business should obtain confirmation that they have done so and, finally, that the competent authority has informed the European Commission.

### **More information**

If you require more information or have questions on this technical notice, please email the Food Standards Agency: [euexit@food.gov.uk](mailto:euexit@food.gov.uk)

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.