



## Brexit Checklist

### Food and drink businesses

This 15-point checklist highlights the actions everyone in the food and drink sector should take right now to prepare for Brexit.

The checklist covers the key areas in which Brexit will affect the food and drink industry:

- Trade
- Employment
- Finances.

Read on to learn how to help your food and drink business thrive through Brexit and beyond.

#### Trade

Buying and selling food and drink in Europe will be different after 31 December 2020. Here are the steps you need to take to avoid falling foul of the changes.

#### **1. Make sure you have a UK Economic Operator Registration and Identification (EORI) number.**

If you don't have an EORI, you may have increased costs and delays when moving goods between the UK and non-EU countries. You can *get an EORI number through gov.uk*.

#### **2. Decide if you want to hire an import-export agent, or make customs declarations yourself.**

If you want to make declarations yourself, you can *read government guidance on import, export and customs for*

*businesses.*

Alternatively, you can use a company which specialises in this area, such as:

- Customs agents and brokers
- Freight forwarders
- Shipping companies
- Fast parcel operators
- Agents who specialise in a certain industry, like fresh foods.

There's a regularly-updated *list of customs agents and fast parcel operators on gov.uk*.

#### **3. Contact the organisation that moves your goods and find out what they need to make the declarations for them, or if you'll need to make the declarations yourself.**

There are different rules depending on whether you're importing goods from within the EU or outside the EU. To find out more about the relevant duties, VAT, licences and certificates, *read the government's 'Starting to import' guide*.

#### **4. Check how you'll be affected by the UK's temporary tariff regime.**

The UK Global Tariff (UKGT) takes effect on 1 January 2021 and applies for 12 months. *Use the UK Global Tariff tool to check the*

*tariffs that will apply to goods you import.*

## **5. Ensure you're following the latest rules on importing and exporting animals and plants.**

There are new processes for importing, exporting and making notifications about certain products that you need to follow:

- *Importing animals, animal products and high-risk food and feed not of animal origin from 1 January 2021*
- *Export or move live animals and animal products to the EU from 1 January 2021*
- *Importing and exporting plants and plant products from 1 January 2021.*

## **6. Make sure you understand and follow the latest rules on labelling.**

From 1 January 2021, changes will be made that will affect the following, according to *government guidance on food and drink labelling changes*:

- Country of origin labelling
- Food business operator (FBO) address labelling
- Use of the EU emblem
- Use of the EU health and identification marks
- Use of the EU organic logo
- Use of the geographical indication (GI) logo.

You can also *read the European Commission's guidance on EU food law.*

## **7. Find out which marketing standards you need to meet if you export products to the EU.**

Once the UK leaves the EU, marketing standards will change for certain products, including wine and hops, beef and poultry, and fruits and vegetables. That's because the UK will be classed as a 'third country'.

If you export these products to the EU, you'll need to meet the standards for third countries from the *European Commission's marketing standards regulations*.

## **8. Audit your supply chain for vulnerabilities.**

Here are the questions you should ask yourself to protect your food and drink business's supply chain:

- Looking at where you receive supplies from the EU, is an alternative supply route available?
- Do you have an up-to-date contract in place with your suppliers, and does it share out the risk of a no-deal scenario appropriately?
- Have you established which party is legally obliged to bear the increased tariff costs which will be likely on your supply chain?
- Have you established which regulatory changes will affect the products being supplied, and which party bears the risk and cost of regulatory change?

- Where there's risk of disruption, do you have sufficient stock in the UK to minimise the impact on your business?

You can also *read our Brexit supply chain, tariffs and trade guidance.*

## **9. Review key terms in your existing supply chain contracts to protect against uncertainty.**

The changes affecting food and drink businesses mean checking and updating your supplier contracts is more important than ever. Here are the things you need to check right now:

- Flexibility regarding pricing mechanisms
- Where pricing is fixed, any assumptions, exceptions or thresholds that will open up the price to change or re-negotiation
- Force majeure clauses
- Term, termination or break clauses
- Hardship clauses
- Flexibility to allow for future reorganisations
- Restrictions on staffing changes
- Responsibilities for delivery costs and delays
- The territory covered
- Governing law and enforcement.

For more advice on reviewing contract terms for Brexit, *read our Brexit guide to supply chain, tariffs and trade.*

## **Employment**

If you employ non-UK workers, you need to be aware of new rules that could apply after 31 December 2020. Here are the actions you need to take to protect your employees and your business alike.

## **10. Make sure all current European Economic Area (EEA) national employees already in the UK apply for settled status before the deadline of 30 June 2021.**

People from the EEA currently living in the UK must apply to the EU Settlement Scheme if they want to remain a citizen after 30 June 2021. If this applies to anyone working for you, make sure they *apply to the scheme through gov.uk.*

## **11. Consider starting employment with new EEA national employees before 11pm on 31 December 2020 so they can apply for pre-settled status and don't fall under the new immigration rules.**

From 1 January 2020, the UK government will introduce its *new points-based immigration system*. This will affect the employment of EEA nationals, particularly lower-skilled workers.

Those with pre-settled status won't be affected by the new immigration rules. If you're planning to employ EEA nationals and lower-skilled workers in particular, do it before 31

December 2020, and make sure they *apply to the EU Settlement Scheme*.

### **12. Apply for a visa sponsor licence as soon as possible this year to beat the surge next year.**

To employ EEA and Swiss citizens from 1 January 2021, you'll need a visa sponsor licence. Demand for these could be high, so get organised now and *read government guidance on UK visa sponsorship for employers*.

### **Finances**

There's no doubt Brexit will bring uncertainty, at least at first, for food and drink businesses. Follow these tips to help manage any financial issues and put your business in the strongest possible position.

### **13. Consider how your business will be funded if more cash is tied up in working capital due to holding additional stock.**

Brexit may change how quickly or easily you can get goods overseas. This might affect how much stock you hold, which could have a knock-on effect on your finances.

Funding options that might help food and drink businesses affected by Brexit include:

- Working capital loans
- Overdrafts
- Asset-based financing of receivables or inventory.

You can *read our Brexit guidance on banking and cash flow*.

### **14. Check for flexibility to amend facilities and/or incur more debt.**

Market volatility caused by Brexit could affect your ability to meet financial covenants in loan agreements or facilities. If there's a risk of default, you should speak to your lender straight away.

You can *find out more about how Brexit could affect currency volatility in our Brexit banking and cash flow guide*.

### **15. Consider your supply chain and the demand for goods.**

Here are some of the actions you could take to better manage your finances through Brexit:

- Consider asking for payment on delivery, and maintain good credit-control
- Think about opening a bank account in the country you

import goods from

- Consider relocating your head office, or setting up a subsidiary in Europe
- Be aware of the latest financial position of your business, as well as the daily cash flow position.

You can *get in-depth banking and cash flow advice on our Brexit hub*.

### **Summary**

Now you know the steps to take to get your food and drink business ready for Brexit. But planning for success after 1 January 2021 doesn't stop there.

Make sure you *visit our Brexit hub for the latest legal guidance and updates on the developments that matter to you*.

And if you want expert help and advice in planning for Brexit and beyond, *contact our specialist food and drink lawyers today*.

### **Further reading**

- *Government guidance on how to prepare your food and drink business for 1 January 2021*