



FOOD LAW & BREXIT

“Until the UK leaves the EU, EU law continues to apply to and within the UK, both when it comes to rights and obligations”

(Informal meeting of EU Council 29 June 2016).

Currently, the future shape of food law in the UK is unknown but for now things remain as they are. EU food law traditionally took the form of directives. This required local implementation by each Member State. However, in more recent times EU food law has been in the form of regulations, making it directly applicable across all Member States but with a framework relating to local Member State administration and enforcement.

It is likely that the UK will need to legislate in a number of areas of food law including labelling (or food information), food improvement agents, general food law, food packaging and nutrition and health claims. How the UK approaches this will be interesting as the focus in the UK across all areas of business in recent times has been de-regulation (The Red Tape Challenge). It may be that the UK implements more codes of practice rather than specific statutory rules in these areas going forward.

POST BREXIT CONSIDERATIONS

AREA		POTENTIAL IMPACT
Imports Into The Eu	Unless the UK is in an EEA / single market type arrangement, imports into the EU from the UK will be treated like a third country (i.e. Australia, New Zealand)	Once UK origin food arrives in the EU, it will be required to comply with EU food law. That obligation may lie with the importer (i.e. the importer based within the EU). This could result in increased costs relating to imports of UK origin food.
Labelling	If EU law no longer applies to UK origin food, the UK might adopt its own labelling rules which may differ from EU labelling requirements under the Food Information to Consumers Regulation (“FIC”).	Ireland might be impacted if the UK has different labelling rules. Currently, an English label will be used in both the UK and Ireland by many EU food producers. If a food producer is required to have a UK compliant label and an EU compliant label in English for the Irish market, this increased cost may ultimately mean a food producer decides not to supply to Ireland, as it is a smaller market: UK market = 60 million versus Irish market 4.7 million consumers
Food Safety	Should the UK step away entirely from the EU regulatory system for food, it may no longer be possible for it to participate in the Rapid Alert System for Food and Feed (“RASFF”).	RASFF allows for the speedy notification of food and feed alerts across the national food authorities of the member states, together with the EU Commission, EFSA, Norway, Iceland, Liechtenstein and Switzerland. It would be vital for the UK to join the RASFF network in its own right in order to maintain food safety standards.
Geographic Indicators	What about the ‘ <i>Cornish Pasty</i> ’ or ‘ <i>Scotch</i> ’ whisky. These are protected designations of origin under EU food law. If EU food law doesn’t apply in the UK what does this mean for the relevant protected designations?	Could we distil <i>Scotch</i> in Louth or bake <i>Cornish Pasties</i> in Cork? Arguably yes if the protected designations no longer apply to UK protected food products. Non-EU products can also apply for protection in the EU through a non-EU country procedure. It is possible UK producers may have to re-apply for EU geographic protection.
Nutrition & Health Claims	The claims that can be made in relation to food products must be authorised by EFSA and are regulated at EU level.	Should the UK decide to enact its own laws on nutrition and health claims, will a company providing food products to both the UK and the EU have to comply with two systems concerning claims or will claims authorised by EFSA be allowed in the UK? Is it possible that UK might permit claims that are not authorised in EU such as PROBIOTICS?
Food Improvement Agents Package	Would the UK adopt its own procedures for the authorisation of food additives, food flavourings, enzymes?	EFSA evaluates the safety of additives, flavourings and enzymes in the EU. If the UK adopts its own system for the evaluation and authorisation of food ingredients, will there be a disconnect between what is permissible in the EU and the UK? This may require reformulations by food producers, again leading to increased costs and trade barriers.

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