

Brexit - Business Checklist

17/09/2019 Revised



Isle of Man
Government

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The UK is scheduled to cease to be a member of the European Union on the revised date of 31 October 2019, and the newly elected Prime Minister intends that the prospect of a ‘no deal’ Brexit will continue to be an option and it is currently the default option.

This checklist, first issued in December 2018, has again been updated as at 17th September 2019 to help local businesses consider the changes and challenges that may flow from a ‘no deal’ scenario.

The UK’s withdrawal from the EU will bring changes for business of every size and in every sector in the UK and will in some way impact many if not all businesses in the Isle of Man.

While the Isle of Man is not leaving the EU, we will nevertheless see the end of Protocol 3, which provided for rights of access to the EU market for our goods.

In that sense, Isle of Man companies which move goods in and out of the EU, will be required to align with any new regime for the movement of goods, including new customs and VAT arrangements, just as they will apply to the UK.

Meanwhile, for services (both digital and financial), the Isle of Man has been and will remain a ‘third country’ in respect of trade with the EU.

The UK would also have been treated as a third country under Mrs May’s proposed deal, (as indeed it will be in the event of a ‘no deal’), but any changes relating to services market access for the UK brought about by Brexit may be of limited significance to the Isle of Man, given our existing third country status for services.

This checklist focuses on those businesses which are potentially most likely to be affected more immediately and directly from the UK’s withdrawal from the EU, which includes manufacturers and those involved in importation of goods from the EU, and/or the rest of the world, including retail and construction sectors, and updates will be released if there are any important new developments.

Given that the UK’s original date for withdrawal was set over 2 years ago and that since July 2017, the UK Government and European Commission had set out the details of what is expected to be the only deal on the table, some companies will already be fully planned for the challenges and possibly some new opportunities ahead arising from the UK’s exit from the EU.

For those which are not, there is still some time to prepare ie to end of October, but only if there is a deal agreed before 31 October is there likely to be a transition/implementation period in which to plan and prepare beyond that during which time Protocol 3 provisions would continue to apply.

Certainly, if they have not already done so, businesses likely to be affected, particularly by a ‘no deal’ scenario, should undertake a ‘health check’ and may benefit from a readiness test of existing business plans - hopefully this checklist will help with some of the key questions to consider.

Time spent now thinking through the changes and risks that Brexit may bring to your business could still be very worthwhile and could even yield real benefits in the future.

Note: to support local businesses, the Department for Enterprise has introduced a new grant category under its Business Improvement Scheme to obtain external consultancy to help with Brexit planning:

- Businesses in any sector may apply, not just exporters;
- 50% support (up to a maximum of £5,000) is available, on prior application to the Department.

Area	Context	Considerations/Actions
1 Cross Border Trade		
UK/EU customs checks	The IOM and UK as 'third countries' would mean that IOM and UK exporters to the EU will need to start making customs declarations on all goods destined for EU.	<p>Consider what customs arrangements and documents you currently have to comply with for non - EU markets; you are likely to have to apply the same treatments to all imports from and exports to the EU in future.</p> <p>Businesses that will import goods from the EU or export goods to the EU will need to apply for an EORI number. It is recommended that if you anticipate you will need an EORI number that you apply now to avoid any backlog. Information on applying for an EORI number can be found here:</p> <p>1) if you are already VAT registered: EORI for Isle of Man applicants</p> <p>2) if you are <u>not</u> VAT registered: https://www.gov.uk/eori</p>
Potential delays at UK/EU/ Northern Ireland border	With potential customs checks between the UK and EU borders, there may be significant delays in shipments.	<p>Have you considered how resilient your supply chain is to border delays?</p> <p>Do you have penalty clauses in your contracts for late delivery of your inbound goods?</p> <p>Have you consulted your logistics provider/freight agent regarding anticipated changes in arrangements?</p> <p>Do you need to carry and finance additional buffer stocks and find storage for these?</p> <p>NB: Special arrangements apply to Northern Ireland, see: https://www.gov.uk/guidance/eu-exit-avoiding-a-hard-border-in-northern-ireland-in-a-no-deal-scenario</p>
Tariffs on UK - EU Trade	In the event of a 'no deal' Brexit there will be tariffs between the UK and EU based on MFN (Most Favoured Nation) tariffs which apply when countries do not have any other special trade agreements.	<p>Consider if there will be additional costs to be financed through having to meet MFN tariffs, if there is no deal.</p> <p>Do you know the HS codes (international classification codes) for your products or the EU MFN tariff that would apply to them?</p> <p>For the proposed new tariffs regime see: https://www.gov.uk/guidance/check-temporary-rates-of-customs-duty-on-imports-after-eu-exit</p>
Rules of Origin in UK	Even if the UK has a deal which includes a zero - tariff trade	If you are a supplier/manufacturer/exporter of goods, can you provide proof of origin if required?

<p>- EU Trade</p>	<p>agreement with the EU, IOM and UK companies will need to prove that their products are of IOM/UK origin to benefit from this, though the exact terms are yet to be defined.</p>	<p>Can you evidence your source of components or are you able to audit your suppliers to prove your goods content?</p> <p>The IOM Chamber of Commerce issues Certificates of Origin.</p> <p>For more information see: http://www.iomchamber.org.im/</p> <p>Additionally, the UK has published its proposed new system of tariffs and preference rules of origin to be applied after the UK has left the EU, see:</p> <p>https://www.gov.uk/government/publications/notice-830-tariff-preference-new-general-system-of-preference-rules-of-origin</p>
<p>EU Trade Agreements with Third Countries</p>	<p>Although the UK's intention is to secure the benefits of existing EU trade deals with other countries, (it has secured 12 of around 40 to date), these will take further time to secure and in the event of 'no deal' or if not secured, preferential trade terms will no longer be available.</p>	<p>Consider if you currently benefit from preferential duties and trade terms via FTAs with third countries which are available to you by virtue of the UK's EU membership (eg FTA with South Korea) and what the costs and other implications might be if these are lost?</p> <p>Consider if these are critical markets and your customer's potential reaction to the changes and how you might mitigate the additional costs of doing business with them.</p> <p>The Isle of Man intends that those FTAs secured by the UK on a grandfathering basis from the EU will continue to apply to the extent they did previously, should the rollover of these take place.</p>
<p>Customs facilitation and reliefs etc.</p>	<p>There are a number of duty relief/deferral schemes available to IOM and UK businesses from Customs. There is also a trusted trader scheme - AEO (Authorised Economic Operator) that may be relevant. IOM Customs and Excise can advise.</p>	<p>Consider if there may be any additional customs reliefs or trusted trader schemes you might use - contact IOM Customs and Excise for information.</p> <p>See also: https://www.gov.uk/duty-relief-for-imports-and-exports and:</p> <p>https://www.gov.uk/guidance/authorised-economic-operator-certification</p> <p>Consider how knowledgeable are your staff about customs matters, and if additional staff or training might be valuable.</p>

2 Taxation

<p>Import VAT</p>	<p>In the event of 'no deal', both the UK</p>	<p>Consider cash flow and other implications of making earlier VAT payments or the possibility of setting up a deferment account with</p>
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	<p>and IOM would exit the EU VAT area. The UK proposes to permit import VAT to be declared on VAT returns for many VAT registered businesses. For those that are not registered, VAT may be payable at the border on goods imports from the EU.</p>	<p>Customs.</p> <p>See also: https://www.gov.uk/government/publications/vat-for-businesses-if-theres-no-brexit-deal/vat-for-businesses-if-theres-no-brexit-deal</p>
<p>VAT - General</p>	<p>Businesses may need to have VAT registrations in EU countries in future if they want to hold stocks there.</p> <p>Businesses may no longer be able to recover VAT incurred in EU countries which is presently possible under the EU refund scheme.</p> <p>Traders may in future need to register under the MOSS Scheme (Mini One Stop Shop) in an EU country if the UK/IOM has to discontinue such a scheme, especially if future proposals for it to extend to goods as well as services come in.</p>	<p>Consider the impact of VAT changes on the business and any financial and other planning implications.</p> <p>Consult IOM Customs and Excise and VAT Office if uncertain of changes ahead.</p>
<p>Deferment Accounts</p>	<p>Deferment Accounts - (allowing for deferment of VAT and Customs Duty payment for up to 1 month) may be</p>	<p>Consider if the business would be eligible and if a deferment account to postpone VAT and Customs Duty on imports would be helpful.</p>

available to qualifying companies on application to IOM Customs and VAT Office.

3 Currency Risk

Currency volatility	The Bank of England has predicted major currency devaluation in the event of a 'no deal' Brexit and volatility even in the event of a deal.	Consider the currencies you are paid in, possible currency movements and their impact on your cash flow/finances. Also, consider if new contracts can be made more favourable to cover this, or if other hedging methods of currency risks can be employed.
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4 Product Regulations

EU Regulation	It remains unclear whether the EU will permit UK regulators to continue to licence goods for the EU market after Brexit or conduct conformity assessment checks on goods for EU markets acceptable to the EU.	Consider which regulatory bodies and measures you have to comply with and whether you may have to take steps to deal with EU bodies instead of UK ones for this.
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5 Intellectual Property Rights

Copyright	Copyright protection is underpinned by international treaties and does not depend on the UK's membership of the EU, so will not be affected if the UK leaves the EU without a deal. There are a number of 'cross -border' EU mechanisms but only one of these, the sui generis database	Businesses relying on sui generis database protection rights may need to consider other protections such as restrictive licensing agreements.
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	rights, applies in the Island. The sui generis database rights would however be 'lost' under a 'no deal' scenario.	
Patents	The IOM does not have its own Patent Office. Instead, patent applications to the UK Intellectual Property Office automatically cover both the UK and the IOM. UK and EU law on patents applies to the IOM. The UK's intention is that existing systems, such as that for supplementary protection certificates, will remain in place. The IOM is working with the UK to ensure that those mechanisms continue in a 'no deal' scenario.	There should be no need for immediate action as the current rules remain in place at the point the UK exits the EU.
Trademarks and registered designs	Anyone in the world can apply for an EU trademark or registered Community design. These rights cover all EU member states, including the UK. These rights are also recognised in the IOM. However, in the event of Brexit, EU trademarks and registered designs will no longer cover	No immediate action should be required, though businesses with trademark registrations should monitor the situation for new legal developments ahead.

the UK. The UK intends that equivalent UK protections will be granted to existing right holders when the UK exits the EU. The IOM is working with the UK Government to ensure that those rights also cover the Island in that event.

6 Other Legal Issues

Contracts

Terms of contracts with customers and suppliers in existing contracts may no longer be valid, relevant, or enforceable after Brexit. New contracts may need expert advice on drafting.

Consider what contracts may be open to challenge or non-performance and if they depend on references to the EU and EU regulations and seek expert legal advice, as appropriate.

7 Employment and staff

Workforce retention

If you employ EEA nationals, the IOM is planning to introduce a Settlement Scheme offering the same rights to them and their families to stay in IOM as in the UK (as negotiated by the UK in their proposed deal). In the event of 'no deal', a modified scheme is expected, but offering similar rights.

Consider the need to reassure affected employees about their status and for them to enquire or apply for Settlement via the IOM Immigration Office as soon as possible.

See: <https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-nationals>

Also see:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf

Recruitment

The UK is planning

Consideration may need to be given to the process of making visa

of staff	future changes to the immigration rules for new applicants (including EEA and non EEA Nationals) and the IOM's position is largely expected to mirror these.	applications for new EEA recruits and businesses may wish to monitor the UK Immigration websites for developments (see also: https://www.gov.uk/government/publications/migration-advisory-committee-mac-report-eea-migration) or consult the IOM Immigration Office for further information.
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For further information:

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Retail and Construction lead - Tim Cowsill: tel.687147; email tim.cowsill@gov.im

Business Improvement Scheme (grants) - tel. 687333; email enterprisesupport@gov.im

IOM CUSTOMS AND EXCISE AND VAT OFFICE

Advice Centre: tel. 648130; Customs: tel. 648140; email Customs@gov.im

IMMIGRATION OFFICE

<https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-nationals/brexit-eu-settlement-scheme/>

CABINET OFFICE

Useful Brexit Website links:

<https://www.gov.im/media/1367007/isle-of-man-brexit-guide.pdf>

<https://www.gov.im/about-the-government/government/brexit/technicalnotices>

<https://www.gov.im/about-the-government/government/brexit/reports-on-brexit/>

