



## Questions and Answers

### Brexit and Food Law in Ireland

The UK is due to leave the European Union (EU). How and when they may leave is not yet certain.

Currently goods move between Ireland and the UK without the requirement for customs declarations, sanitary or phytosanitary checks, routine customs checks and payment of customs duties. This is because we are both members of the EU and the Single Market.

However, it is likely that when the UK leaves the EU, they will leave the Single Market. The UK will then become a 'third country' for trade and customs purposes and for a range of sanitary checks for live animals and animal products, phytosanitary checks for plants and plant products including wood packaging e.g. wood pallets. This means that if you import goods from, export goods to, or move goods through the UK post-Brexit, new rules will apply.

This document addresses food legislation issues that are likely to arise in a situation where the UK becomes a third country and will be updated as more information becomes available.

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# 1 Imports

Food imports refer to the movement of food products into EU Member States (MS) from countries outside the EU. Food is free to move between MS without any additional controls as it complies with the same legislation, this is referred to as 'intra-community trade' or 'trade'. When the UK leaves the EU, 'intra-community trade' will no longer apply to foods from the UK as it will be considered a third country (non EU country) and so any food coming from the UK will now be subject to import controls.

All food brought into the EU must comply in full with the general safety requirements of [Regulation 178/2002](#)<sup>1</sup>. In addition, product specific legislation applies in the case of food being imported into the EU from a third country.

## 1.1 What are EU import controls on foods?

EU food import controls are checks on foods and food contact materials (FCM) at the point of entry into an EU member state. Import controls are a legal requirement of EU food law that ensures food safety and consumer protection. They are crucial in verifying compliance of food and related products with relevant food safety requirements and legislation. Import controls are also carried out on live animals, plants and products of animal or plant origin entering the EU market and so will have to be carried out on these products coming from the UK once they leave the EU.

## 1.2 What foods from the UK may be subject to import controls?

The following foods will be subject to import controls when the UK becomes a third country:

- Animal products and food containing animal products e.g. meat, meat products, poultry, fish, eggs, milk, honey, dairy products etc.
- Food with no animal content, known as 'products of non-animal origin' e.g. fruit, vegetables, nuts, spices, certain bakery products, mineral water, fruit juices etc.
- Composite foods (i.e. food containing both processed ingredients of animal and plant origin)

# 2 Food Products of non-animal origin

Under [Regulation \(EC\) No 882/2004](#)<sup>2</sup> on official controls, food imports of non-animal origin from third countries are risk assessed and inspected by Environmental Health Officers (EHOs) of the Environmental Health Service (EHS) at Dublin seaport and Dublin airport. In addition, increased levels of controls, including examination and/or sampling, are required on specific products.

Documentary checks can be done and the products cleared by EHS before the food products arrive at the point of import into Ireland. This is why it is essential for food businesses to ensure that all

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<sup>1</sup> Regulation (EC) No 178/2002 of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

<sup>2</sup> Regulation (EC) No 882/2004 of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

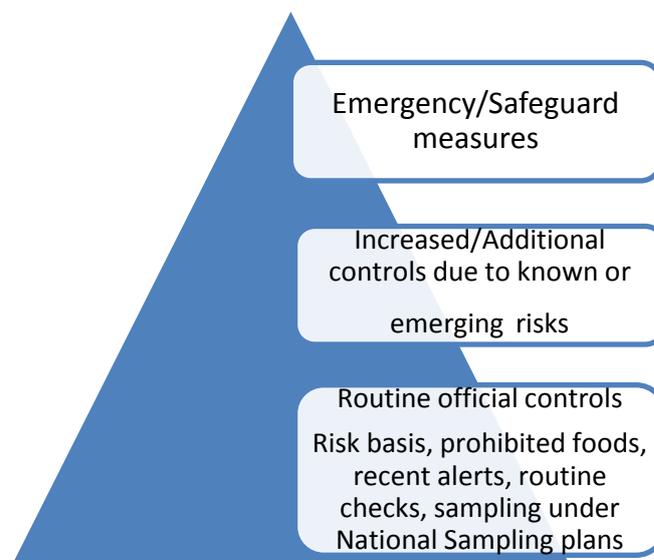
necessary import documentation is complete, accurate and is submitted in advance, it is also in many cases a requirement of the law that documents are submitted in advance.

A small percentage of food products of non-animal origin being imported require a physical examination and this is risk based and carried out according to EU legislation.

## 2.1 What are the different levels of control for the import of food of non-animal origin from the UK, once the UK leave the EU?

There are essentially three levels of official controls for the import of food of non-animal origin from third countries and these include:

1. Routine official controls under Regulation [882/2004](#)<sup>2</sup>
2. Increased official controls as per [Regulation 669/2009](#)<sup>3</sup>
3. Emergency/Safeguard measures as per [Regulation 178/2002](#)<sup>1</sup> and [Regulation 882/2004](#)<sup>2</sup>



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<sup>3</sup>Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC

## 2.2 What are routine controls?

[Regulation \(EC\) No 882/2004](#)<sup>2</sup> on official controls obliges the competent authority to carry out regular import controls on food and feed of non-animal origin imported into the EU.

## 2.3 What documents must be submitted for non-animal origin foods which are not subject to increased controls?

For customs processes, a completed Single Administrative Document (SAD) must be submitted prior to the food being imported. In addition the following information must accompany the SAD:

- Bill of Lading – a document issued by a carrier, or its agent, to the shipper as a contract of carriage of goods.
- Commercial Invoice
- Packing List
- Single Administrative Document (SAD)
- Consignee details
- Delivery address
- Arrival Notice – date of arrival and Seaport/Airport location.

## 2.4 What are increased controls?

Certain foods and feed of non-animal origin are subject to **increased levels of official import controls**, these foods are listed in [Annex 1 of Regulation 669/2009](#)<sup>3</sup>. When importing foods of animal origin which are subject to increased controls, it is necessary to submit a Common Entry Document (CED). Part I of a Common Entry Document (CED) must be completed for each food being imported that requires increased controls. The increased control mechanism means that competent authorities will:

- carry out systematic (100%) checks on documents accompanying the consignments,
- conduct identity and physical checks, including laboratory analysis, at a frequency set down in the legislation relevant to the specific commodity being imported.

**This list of products subject to increased controls is regularly updated by the EU based on:**

- notifications received through the [Rapid Alert System for Food and Feed \(RASFF\)](#);
- reports from the EU [Health and Food Audits and Analysis Directorate](#);
- Information from EU countries and non-EU countries.

See the [full list of foods subject to increased controls](#). Examples of foods include raspberries from Serbia, peppers from Sri Lanka and pistachios (in shells, shelled or roasted) from the United States.

## 2.5 What documents must be submitted to import foods with increased controls?

Part I of the Common Entry Document (CED) must be completed and submitted. Foods coming through Dublin airport or Dublin seaport can submit document to [importcontroldublin@hse.ie](mailto:importcontroldublin@hse.ie)

In addition the following information must accompany the CED:

- Bill of Lading – a document issued by a carrier, or its agent, to the shipper as a contract of carriage of goods.
- Commercial Invoice
- Packing List
- Single Administrative Document (SAD)
- Consignee details
- Delivery address
- Arrival Notice – date of arrival and Seaport/Airport location.

## 2.6 What else needs to be considered when importing foods of non-animal origin which require increased controls?

- ✓ Prior notification (**of at least 1 working day prior to the physical arrival of the consignment**) is required for foods subject to increased controls
- ✓ Foods must be presented at a [Designated Point of Entry](#) (DPE) i.e Dublin Port or Dublin airport
- ✓ Identity checks will be carried out on each food/consignment
- ✓ Physical and identity checks may be carried out according to the legislation (sets down the specifics in terms of the foods/frequency of physical check). Physical checks consider compliance and ensuring the product matches the paperwork submitted. It also considers the physical condition and temperature of the food being imported and it identifies any undeclared or prohibited food.

## 2.7 What is a Designated Point of Entry?

[Regulation \(EC\) No 882/2004](#) requires that Member States designate particular points of entry (DPE) for the organisation of the increased level of controls. These DPEs which have access to the appropriate control facilities for the different types of food ensure a degree of uniformity in the effectiveness of the controls across the EU. The controls required by Regulation (EC) No 669/2009 cover documentary, identity and physical checks.

In Ireland, the designated points of entry for foods requiring increased controls are listed on the [FSAI website](#). The list of designated points of entry in other EU Member States is available on the [Europa website](#).

## 2.8 What is involved in identity checks and physical checks?

An identity check is a visual inspection to ensure that certificates or other documents accompanying the food consignment tally with the labelling and the content of the consignment.

A physical check is a check on food or food itself which may include checks on the means of transport, on the packaging, labelling and temperature, the sampling for analysis and laboratory testing and any other check necessary to verify compliance with feed or food law.

Both the physical and identity checks are carried out at the same time on the product being imported.

## **2.9 When will foods be released?**

Food will only be released into free circulation when all checks are satisfactory and the competent authority carrying out checks complete Part II of the Common Entry Document. This is why it is essential to ensure that all documents are completed in full and the information contained is correct. Once all documentation is provided on time and is complete and accurate, there should be no delays.

## **2.10 What happens when non-compliance is identified for foods with increased controls?**

If information is missing from the documentary submission, the person responsible for the consignment will be contacted to ask for clarification or further information.

If however, the import controls identify a non-compliance for foods with increased measures, the responsible official of the competent authority must complete Part III of the CED (Common Entry Document) and the consignment will be rejected.

## **3 Emergency & Safeguard Measures:**

Regulation 178/2002<sup>1</sup> and Regulation 882/2004<sup>2</sup> allows for emergency measures to be put in place for certain food imported from certain Third Countries.

Under this Regulation where it is evident that food imported from a third Country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned, the European Commission, can immediately adopt a number of measures, depending on the gravity of the situation.

Emergency measures are in place for a range of food commodities coming into the EU. Food businesses should familiarise themselves with the list of foods subject to emergency measures. These lists are regularly updated so it is important to keep a check on the list.

### **3.1 What documents do I need for importing foods which are subject to safeguard measures?**

- Common Entry Document (CED) – Part I to be completed
- Health certificate
- Certificate of analysis (CoA)

## **4 Food Products of animal origin**

Products of animal origin can only be introduced into the EU if the third country is approved by the EU to do so and must be in the list of approved non-EU countries for that specific category of food. Once the UK becomes a third country, it will need to be listed by the EU Commission as will the

establishment in the UK from which the food is dispatched, and obtained or prepared in, must be "listed" by the Commission for public health purposes. The non-EU country of origin must also have an approved residue plan.

As and from the UK withdrawal date, the introduction of products of animal origin into the EU (e.g. into Ireland) will be subject to veterinary controls at the point of entry into the EU. Therefore, such foods coming into Ireland from the UK will now be subject to veterinary control at a designated EU Border Inspection Post (BIP).

If you are an importer of animal products from the UK which are subject to veterinary controls, you are required to comply with the import conditions set down in EU legislation.

#### **4.1 What is a Border Inspection Post (BIP)?**

Imports of products of animal origin from outside the EU may only be brought into the European Community through a [Border Inspection Post \(BIP\)](#) that has been approved for importation from Third Countries. At an EU BIP, all consignments from Third Countries undergo a documentary and identity check. Physical checks are carried out at frequencies laid down in EU law.

The following are listed as Border Inspection Posts in Ireland:

##### **Dublin Airport**

- Registered equidae as defined in Council Directive 90/426/EEC
- Other live animals

##### **Dublin Port**

- All packed products for human consumption
- Other products

##### **Shannon**

- All packed products for human consumption
- Other packed products
- Live animals - Ungulates: cattle, pigs, sheep, goats, wild and domestic solipeds; Registered equidae as defined in Council Directive 90/426/EEC and Other animals

## 4.2 How do I know if the animal origin products that I wish to import are subject to veterinary checks?

The animal products which are subject to veterinary controls at the Border Inspection Posts are listed in Annex I of [Commission Decision 2007/275/EC<sup>4</sup>](#). You should check this list to identify whether the animal products that you wish to import are subject to the veterinary checks.

## 4.3 Do I need to register with DAFM to import food of animal origin?

Yes. Once the UK leaves the EU they will be considered a third country. Requirements regarding imports from third countries are set out in EU and Irish legislation and include the requirement to register. Contact DAFM by email at [AnimalProductImports@agriculture.gov.ie](mailto:AnimalProductImports@agriculture.gov.ie)

## 4.4 What is TRACES?

[TRACES](#) is the European Commission's online management tool for all sanitary requirements on intra-EU trade and importation of animals, food, feed and plants. Its main objective is to digitise the entire certification process and linked procedures, and is in line with the declaration of the Digital Agenda for Europe

## 4.5 Do I need to register with TRACES?

Yes. The person responsible for the load will need access to the online system 'TRACES'. You can register for access to TRACES by contacting [BrexitRegistration@agriculture.gov.ie](mailto:BrexitRegistration@agriculture.gov.ie)

## 5 Composite Foods

A composite food is defined in EU legislation ([EU Commission Decision 2007/275/EC](#)) as a foodstuff intended for human consumption that contains both processed products of animal origin and products of plant origin and includes those where the processing of primary product is an integral part of the production of the final product

### 5.1 What import controls are in place for 'composite foods',

Composite foods are those that contain both processed products of animal origin and products of plant origin. While some composite foods must go through veterinary checks at the point of entry, an exemption applies to those composite foods which:

- ✓ Contain less than half of their substance is meat
- ✓ The products are shelf stable at ambient temperature
- ✓ Clearly identified as intended for human consumption
- ✓ Securely packaged or sealed in clean containers.
- ✓ Accompanied by commercial documents for each food.

More [information](#) on the requirements for importing animal products from the UK is available from DAFM.

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<sup>4</sup> Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC

## 6 Exports

The movement of goods to a destination outside the EU is referred to as an 'export'. Trading with countries that are not members of the EU is often referred to as 'export to a third country'. This trade is often subject to restrictions or may require additional certification. The EU have a [Market Access Database](#) that contains extensive information about market access conditions in non-EU countries.

In the event of a withdrawal of the UK from the EU without a deal, the UK will be considered a third country and an export cert may be required where food is being exported from Ireland to the UK (this is the case where food is being exported to a third country). The cert may be requested by the authorities in the importing country e.g UK. Export certs provide evidence that the food products comply with food law and facilitates trade.

However, the UK has stated that once it leaves the EU, there will be no additional controls or checks for UK imports, although this may change within the first 6 months of a no-deal Brexit. More information is available on: <https://www.gov.uk/guidance/importing-animals-animal-products-and-high-risk-food-and-feed-not-of-animal-origin-after-eu-exit>.

### 6.1 Where can I get an export certificate?

The Environmental Health Service (EHS) of the Health Service Executive (HSE) will issue an export certificate for foodstuffs on non-animal origin. You can apply for a health certificate from the HSE on <https://ehoonline.hse.ie><sup>5</sup>

Where veterinary health certificates are required for foods of animal origin, these will be issued by either the Department of Agriculture, Food and the Marine (DAFM) or by the Sea Fisheries Protection Authority (SFPA) for fishery products and live bivalve molluscs.

### 6.2 What documents do I need for an export certificate?

Foods of non-animal origin:

- Details of registration with local HSE environmental health office
- Compliance of food products and labels

Foods of animal origin:

While the UK has indicated that it does not intend to impose export certification requirements at this stage in respect of animal products, it will require the pre-notification of such exports. More information is available on export certification is available on the [DAFM website](#).

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<sup>5</sup> <https://www.hse.ie/eng/services/list/1/enviro/prepare-for-brexit/>

### 6.3 What are the requirements for importing food products of non-animal origin from the UK?

The Environmental Health Service have information available on [their website](#)<sup>5</sup> regarding import controls on food products of non-animal origin and food contact materials entering Ireland from 'third countries' which will include the UK after the withdrawal date.

## 7 Health Marks

EU legislation<sup>6</sup> requires that meat and products of animal origin must be handled in an establishment that has been approved by the relevant enforcement authority to carry out that activity.

These rules also specify that a health mark must be stamped directly onto a carcass or cut of meat after slaughter to indicate that the animal has been inspected before and after slaughter, and that there are no grounds for declaring the meat unfit for human consumption. It must be applied by, or under the supervision of, an official veterinarian.

### 7.1 What should the health mark look like?

EU legislation<sup>7</sup> sets out the format for the health mark and it requires that:

The health mark must be an oval mark at least 6.5 cm wide by 4.5 cm high bearing the following information in legible characters:

(a) the mark must indicate name of the country in which the establishment is located, which may be written out in full in capitals or shown as a two-letter code in accordance with the relevant ISO standard.

(b) the mark must indicate the approval number of the slaughterhouse;

and

(c) When applied in an establishment located within the EU, the mark must be oval in shape and include the abbreviation CE, EC, EF, EG, EK, EO, EY, ES, EÜ, EK, EB, EZ or WE. **These abbreviations must not be included in marks applied on meat imported into the EU from slaughterhouses located outside the EU. In a no-deal Brexit scenario, the UK will be considered a third country immediately after the date of departure from the EU and can not use the EU abbreviations.**

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<sup>6</sup> [Regulation \(EC\) No 853/2004](#) of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin

<sup>7</sup> [Regulation 854/2004](#) laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption

Letters used in the health mark must be at least 0.8 cm high and figures at least 1 cm high. The dimensions and characters of the mark may be reduced for health marking of lamb, kids and piglets.

## 7.2 What will the UK health mark look like?

When the UK leaves the EU, the UK health mark can no longer include any of the EU abbreviations listed in 2.1(c) above, as these are reserved for establishments located in the EU. As a 'third country' the UK can [develop its own mark](#), however if placing meat on the EU market, the mark must as a minimum follow the format set out in EU legislation (See [Question 7.1](#) above).

## 7.3 What colours can I use for the health mark?

The colours used for health marking must be authorised in accordance with EU rules on the use of colouring substances in foodstuffs.<sup>8</sup>

# 8 Identification Mark

Food businesses that make or handle food of animal origin, must (with some limited exceptions) be approved by enforcement authorities before placing food products on the EU market. Approved food businesses are issued with an identification mark.

This identification mark is applied to the packaging of products of animal origin only if the product has been manufactured in accordance with EU food hygiene legislation<sup>9</sup> and in an establishments meeting the requirements of that legislation. Products of animal origin include foods such as milk, cheese, food with a meat or fish ingredient.

## 8.1 What should the identification mark look like?

EU legislation<sup>9</sup> sets out the format for the identification mark on the label. It requires that:

- a) The mark must be legible and indelible, and the characters easily decipherable. It must be clearly displayed for the competent authorities.
- b) The mark must indicate the name of the country in which the establishment is located, which may be written out in full or shown as a two- letter code in accordance with the relevant ISO standard.
- c) The mark must indicate the approval number of the establishment. If an establishment manufactures both food to which this Regulation applies and food to which it does not, the food business operator may apply the same identification mark to both types of food.

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<sup>8</sup> [Regulation \(EC\) No 1333/2008](#) on food additives

<sup>9</sup> [Regulation \(EC\) No 853/2004](#) of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin

- d) When applied in an establishment located within the EU, the mark must be oval in shape and include the abbreviation CE, EC, EF, EG, EK, EO, EY, ES, EÜ, EK, EB, EZ or WE. **These abbreviations must not be included in marks applied on products imported into the EU from establishments located outside the EU.** In a no-deal Brexit scenario, the UK will be considered a Third country immediately after they the EU and cannot use the EU abbreviations.

## 8.2 What will the UK identification mark look like?

When the UK leaves the EU, the UK identification mark can no longer include any of the EU abbreviations listed in 3.1(d) above, as these are reserved for establishments located in the EU. As a 'third country' the UK can develop its own mark, however if placing products of animal origin on the EU market, the mark must as a minimum follow the format set out in EU legislation (See Question 3.1 above).

## 9 Labelling

Foods placed on the EU market must comply with EU food law. [Regulation \(EU\) No. 1169/2011](#) on the provision of food information to the consumer establishes the general principles, requirements and responsibilities governing food information and in particular food labelling. Summary information of the mandatory information is available on the FSAI website.

### 9.1 Do prepacked foods have to provide an EU address?

Yes. The rules regarding the labelling of food within the EU are set out in [Regulation \(EU\) No. 1169/2011 on the provision of food information to consumers](#). This legislation specifies that the provision of the name and EU address of the food business operator responsible for the food within the EU is obligatory. This name and address can be either:

- the operator in the EU under whose name or business name the food is marketed
- **or**
- if that operator is not established in the EU, the name and address of the importer into the EU market must be indicated on the label.

In the case of a 'no deal Brexit' the UK will immediately upon leaving be considered a 'third country' under EU legislation and therefore a UK address alone will not be sufficient. Food placed on the EU market must have an EU contact address as set out in the paragraph.

## **9.2 How should I indicate the name and address on the label?**

The EU name and address indication must be presented on the label in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible. It cannot be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material. In addition the indication must, at the very least meet the minimum font size set down in the food information legislation. Can an EU and a non-EU address appear on a food label?

Yes. A non-EU address can be declared on the label in **addition to but not in place of** the EU address. The inclusion of this additional address on a label must not hide, obscure, detract from or interrupt the mandatory EU address.

## **9.3 Can I use a web address?**

A web address on its own is not sufficient to comply with the obligation to provide an EU address. The address provided must be a physical address within the EU. A web address or email can be included in addition to the physical address.

## **9.4 Who is responsible for food information on a label?**

EU legislation on the provision of food information to the consumer specifies that the food business operator responsible for food information is:

- the operator under whose name or business name the food is marketed  
or
- if that operator is not established in the EU, the importer into the EU market.

The 'responsible' food business operator in the EU must ensure the presence and accuracy of the food information in accordance with the applicable EU food information law and any requirements of relevant national provisions.

## **9.5 Will overlay stickers be permitted on a temporary basis to amend labels?**

The use of overlay stickers on a temporary basis would be permitted on prepacked food for a short time frame whilst awaiting new packaging. The use of such stickers must ensure that food information provided on a label is in compliance with EU food law in particular that all mandatory information is easily visible, clearly legible and, where appropriate, indelible. Mandatory information cannot be hidden or obscured.

## 10 Organic Foods

Under EU organic legislation, only products satisfying the requirements of Regulation (EC) No 834/2007 can bear terms referring to the organic production method (e.g. organic, bio, eco, etc.) or the EU organic logo. Under this legislation, the control authorities and bodies of the EU Member States are responsible for issuing documentary evidence (certificates) to the operators necessary for placing such products on the EU market.

### 10.1 What are the requirements for importing organic foods into the EU?

Organic products imported into the EU may be placed on the EU market as organic, where they have been produced in accordance with EU organic production rules and controls<sup>10</sup>. Only products satisfying the requirements of these rules can bear terms referring to the organic production method or the EU organic logo.

### 10.2 Can I import organic food from outside the EU?

Arrangements for the imports of organic products are in place with certain 'third countries' where their standards and control measures have been assessed as equivalent to those in place in the EU. They are often referred to as 'equivalent' countries and a list is available on the [Europa website](#).

For 'third countries' which are not included in the 'equivalent list', the EU has a [list](#) of control authorities and control bodies who can certify organic food in those 'third countries'.

### 10.3 Certification of Organic Products

All organic products imported into the EU must have the appropriate electronic certificate of inspection (e-COI). These are administered through the Trade Control and Expert System ([TRACES](#))

- Equivalent countries: Certificates are issued by the Control Bodies designated by the countries national authorities
- All other countries: the Certificates are issued by the Control Bodies designated by the EU

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<sup>10</sup> [Council Regulation \(EC\) No 834/2007](#) of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91

#### **10.4 Will UK certification be acceptable under EU Organic legislation?**

According to EU rules on organic production and labelling, the control authorities and bodies of the EU Member States are responsible for issuing documentary evidence (certificates) to the operators placing organic products on the EU market.

In a “no-deal Brexit” scenario, products placed on the EU market after the withdrawal date based on certificates issued by control authorities and bodies in the UK will no longer be considered valid.

The import of organic products from the UK will be subject to the rules for ‘third country’ imports. This requires, that the UK is "listed" as an equivalent country, or that a certificate has been issued by an authorised control agency or body control body ([See 10.2](#)).

#### **10.5 Can non EU countries use the EU Organic Logo?**

Yes. The [EU organic logo](#) can be used on products that satisfy the requirements of EU legislation on organic production<sup>10</sup> and have been certified as organic by an authorised control agency or body.

The logo is:

- mandatory for all pre-packaged EU food products, produced and sold as organic within the EU
- optional for imported products where the product conforms to the EU rules on the import of organic goods

Where the EU organic logo is used, an indication of the place where the agricultural raw materials of which the product is composed have been farmed must also appear in the same visual field as the logo and must take one of the following forms, as appropriate:

- ‘EU Agriculture’, where the agricultural raw material has been farmed in the EU,
- ‘non-EU Agriculture’, where the agricultural raw material has been farmed in ‘third countries’,
- ‘EU/non-EU Agriculture’, where part of the agricultural raw materials has been farmed in the EU and a part of it has been farmed in a ‘third country’.

The above mentioned indication ‘EU’ or ‘non-EU’ may be replaced or supplemented by a country in the case where all agricultural raw materials of which the product is composed have been farmed in that country.

## 11 Mineral Water

### 11.1 Can Natural Mineral Water from the UK be placed on the EU market?

[Directive 2009/54/EC](#)<sup>11</sup> defines natural mineral waters and sets out the terms on which natural mineral waters are recognised. Natural mineral waters are subject to an authorisation procedure carried out by the competent authorities of the EU countries or by European Economic Area (EEA) countries.

The legislation specifies that waters may only be marketed as natural mineral waters in the EU if they comply with the following:

- where waters are extracted from the ground of a Member State, the responsible authority of that Member State has recognised the waters as natural mineral waters in accordance with Directive 2009/54/EC
- where waters are extracted from the ground of a 'third country', the responsible authority of a Member State has recognised the waters as natural mineral waters in accordance with Directive 2009/54/EC.

In a 'no deal Brexit' scenario

- Waters recognised by the UK as natural mineral waters will under EU legislation be considered as extracted from the ground of a 'third country' and can only be imported into the EU if they are 'recognised' as such by the responsible authority of another Member State.

The EU Commission has a [list of natural mineral waters](#) recognised by Member States available on its website.

## 12 Foods which must be notified to the FSAI

Certain food products that are being placed on the Irish market for the first time must be notified to the Food Safety Authority of Ireland (FSAI). These foods include:

- Food supplements<sup>12</sup>
- Foods for special medical purposes<sup>13</sup>
- Infant formula or follow-on formula<sup>14</sup>

As part of the notification process, a model of the label used for that product must be forwarded to the FSAI. Where the above foods have been notified to the FSAI and have subsequently been

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<sup>11</sup> [Directive 2009/54/EC](#) on the exploitation and marketing of natural mineral waters

<sup>12</sup> European Communities (Food Supplements) Regulations 2007, ([S.I. No. 506 of 2007](#))

<sup>13</sup> European Communities (Dietary Foods for Special Medical Purposes) Regulations 2009 ([S.I. No. 187 of 2009](#))

<sup>14</sup> European Communities (Infant Formulae and Follow-on Formulae) Regulations 2007 ([S.I. No. 852 of 2007](#))

reformulated or relabelled (i.e. a change in ingredients or ingredient levels or health claims) these should be notified as if it were a new food supplement.

### **12.1 Food Supplements: Will a change of address on the label from the UK to an EU address require re-notification?**

No. A re-notification will not be necessary for all food supplements already notified to FSAI. However, food businesses will be required to make the necessary changes to the name and address in each notification and complete the steps as a self-declaration process. Only the name and address can be changed this way, all other changes to the supplement in terms of ingredient formulation or other labelling information requires a re-notification.

We are currently working on an IT solution to provide this option. Once this is in place the change to your notification can be made once you log into your notifications.

### **12.2 Foods for special medical purposes: Will a change of address on the label from the UK to an EU address require re-notification**

As above

### **12.3 Infant formula or follow-on formula: Will a change of address on the label from the UK to an EU address require re-notification**

As above

### **12.4 Irradiated food**

Food treated with ionising radiation is regulated by EU law<sup>15</sup>. As of the withdrawal date, the import of irradiated food from the UK into the EU will be treated the same as irradiated food from any other third country.

## **13 Registering a food business**

If you wish to set up a food business in Ireland, EU and national legislation obliges you to register your food business with a competent authority. The particular authority you need to register with will depend on the type of business you intend to operate such as whether the business will handle

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<sup>15</sup> Directive 1999/2/EC and 1999/3/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation

or process foods of animal origin, for example meat, poultry, fish etc. The [contact details](#) for the competent authorities are available on the FSAI website.

If you intend on using any additional storage premises (such as a warehouse) or you change the activities within your already registered food business, you will need to consult directly with your official agency as this will need to be reviewed on a case-by-case basis.

## **14 Transition Period**

### **14.1 Can product placed on the market before the UK withdrawal from the EU be allowed to be sold until end of shelf life?**

Food which has been lawfully placed on the Irish market before the UK leaves the EU can remain on the Irish market under the conditions set out in the relevant EU legislation applicable at the withdrawal date.

In the [EU Notice to Stakeholders on food law](#), an explanation of ‘placing on the market’ is set out as:

If an individual food product has been placed on the EU-27 market before the withdrawal date, i.e. it has been

- held in the EU-27 for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not; or
- sold, distributed, or transferred by other forms to the EU-27

this “stock” of food can continue to be sold, distributed or transferred in the EU-27 as of the withdrawal date without the need for labelling changes.

This is to be assessed for each individual product. It does not extend, for example, to a type of product.

### **14.2 Is there a transition period?**

The UK is due to leave the EU. How and when they may leave is not yet certain. The legislative regime that will be applicable to food and food contact materials arriving into Ireland from the UK will be dependent on whether or not an agreement is reached between the EU and the UK. If the UK leaves the EU without reaching an agreement then it is a “no-deal” Brexit and as foods placed on the market must comply with EU legislation i.e. there will be no transitional period.

The Withdrawal Agreement (which was ratified by the EU MS but is subject to ratification by the UK Parliament) provides for a transition period until 31 December 2020 (21 months). During the transition period, EU law would continue to apply to and in the UK as if it were an EU Member State. However, the UK would no longer participate in the institutions and decision-making of the EU.

The European Council agreed to an extension to allow for the ratification of the Withdrawal Agreement. This extension will last no longer than 31<sup>st</sup> October 2019. The Withdrawal Agreement may enter into force on an earlier date, if the ratification procedures are completed before 31 October 2019. Consequently, the withdrawal would take place on the first day of the month

following the completion of the ratification procedures or on 1<sup>st</sup> November 2019, whichever is the earliest.

If the UK is still a Member State on 23-26 May 2019, and if it has not ratified the Withdrawal Agreement by 22<sup>nd</sup> May 2019, it will be under an obligation to hold the elections to the European Parliament in accordance with EU law. In the event that those elections do not take place in the United Kingdom, the extension will cease on 31<sup>st</sup> May 2019.

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