



All set for Brexit?

The final countdown

29 March 2019 will soon be upon us. At the moment most commentators and business leaders continue to contemplate the potential scenarios of 'this deal', 'that deal', or 'no deal'. Despite businesses being urged to review their operations to put in place contingency plans, according to a recent survey carried out by AIB, only 2% of SMEs in Northern Ireland have a formal Brexit plan in place. That said, it is not too late to start.

We understand that planning for something that might never happen may seem counter-intuitive. We also appreciate that knowing where to start is not easy either.

We have put together this simple checklist below to support and assist clients in assessing some key Brexit-related legal risks. It serves as a prompt for the type of questions businesses should be asking and provides an indication of those areas in which a further audit or more detailed advice or assessment would be beneficial. Of course this checklist does not address every conceivable eventuality so it will be important for each business to consider its own particular circumstances based on factors such as its location, trading relationships in the EU, regulatory environment, location of key customers and suppliers, as well as the make-up of its workforce.

You should also remember that you do not need to do this alone. Many trade organisations have Brexit guidance available which consider in detail matters such as trade, customs considerations, taxation arrangements and the importance of understanding your supply chain. Furthermore, InterTrade Ireland and InvestNI both have schemes in place which can provide financial support for your Brexit-related planning, including legal advice from Eversheds Sutherland.

You may also find some relevant guidance on our **Brexit Hub** and you will find key considerations for each sector on **Brexit**. We will also be happy to assist with any questions or queries you may have, and can support you with an application for financial support through InterTrade Ireland.

Key legal considerations	To consider	Not applicable
– Do your contracts present risks after the UK leaves the EU?		
– Will you be able to perform your contracts post-Brexit?		
– How do your contracts deal with matters such as delay, non-performance, exchange rate fluctuation, cost increases and changes to law?		
– Do your contracts contain a "time is of the essence" clause?		
– Can you terminate the contract if you need to?		
– What do your contracts say about choice of law and jurisdiction?		
– Do you need to renegotiate?		
– Do you need to amend your existing templates?		

Key legal considerations	To consider	Not applicable
– Do you own any Intellectual property rights , or trademarks.		
– Do you know how leaving the EU will affect these?		
– The Data Protection Act 2018 , has implemented the General Data Protection Regulations into UK law, and this is likely to remain the case, meaning that we should remain able to transfer data to and from the EU. However, the wording of many Data Protection Clauses may require updating.		
– Do your contracts, policies and procedures need updating?		
– You may currently be registered with an EU regulator , this will likely change to a UK regulator.		
– Have you enquired whether your regulator is changing? Are there any new obligations or reporting requirements?		
– Who is responsible for regulatory change under your contract?		
– Does your website have an EU domain (e.g. www.shop.eu) – If so you should consider changing this to a UK domain, as after the UK exit the EU you will no longer be entitled to renew this domain name.		
– Has your business registered for an EORI number to continue trading with the EU in the event of a no deal?		
– Does your business currently benefit from any EU funding , have you enquired whether this will continue?		
– Do you understand the immigration and employment implications of Brexit in a ‘deal’ and ‘no-deal’ scenario?		
– Ascertain the percentage of your workforce from the EU.		
– What can you do to retain these staff members – reassurance emails, guidance on settled status etc.		
– What impact will the end of free movement have on your current workforce and your ability to attract skills and talent in the future?		
– Can you secure any workers from the EEA before 29 March 2019 (if no deal), or 31 December 2020 if a deal?		

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