

New EU address requirement for food and drink labelling after Brexit

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What are the changes?

The UK Government has recently released [guidance](#) confirming a number of requirements for Food Business Operators (FBOs) who wish to export packaged food and beverages to Europe after the end of the BREXIT transition period. FBOs are advised to read this [guidance](#) in detail if required.



This note focuses on the specific requirement for FBOs to have either an EU or Northern Ireland (NI) establishment address on their packaging labels following the end of the transition period. At present, having an address within Great Britain (GB) on products sold into the EU is sufficient to comply with the regulatory requirements. However, after 1 January 2021 you must ensure that all packaging is labelled either with an address within the EU or NI (as EU food law will continue to apply to and in NI under the Irish Protocol).

If you are a UK based SME without operations in Europe, there may be significant work required in identifying an appropriate address before sending your product labels to print. It is important therefore that you start preparations for this change sooner rather than later.

What is the purpose of the regulations?

Generally, food labelling regulations seek to ensure a high level of protection of consumer health. The reason that the regulations require you to have an EU or NI address on produce imported into Europe is to ensure that consumers are able to easily identify the manufacturer and contact them should the need so arise. In turn, the incentive for manufacturers is that a well labelled product significantly decreases liability.

What does this mean for UK SMEs without operations in Europe?

Anyone who wishes to export food or beverages from the UK into the EU from 1 January 2021 needs to have either an EU or NI address on their products' labels. This can be your EU or NI address or, where you don't have operations in Europe or NI, the address of an EU or NI importer.

It is worth noting however, that any food or beverage which has already been placed on the EU market prior to the end of the transition period can continue to be sold without requiring updated labels. "Placed on the market" includes products being held in the EU for the purpose of sale. Furthermore, it is permissible to print labels carrying both your UK address and the relevant EU address (be that your operator in Europe, or an appointed importer). This would allow the same

labels to be used for produce sold in the UK and produce exported to Europe, and is likely to afford a cost saving.

If Europe is a significant market for your business, you may wish to consider opening an operating facility in the EU or NI, either to carry out operations as a producer, or simply to operate as a holding facility for your product distribution within the EU. Of course, this may take some time and there are likely to be significant cost implications in doing so. It may be, therefore, that you wish to wait until after the post-Brexit uncertainty has settled before considering this option.

Where you continue to operate solely in GB, you can appoint a third party to act as the importer. Importers need to be established as an EU or NI entity or have a physical presence in the EU or NI and are responsible for ensuring the imported products comply with local laws and regulations.

In some situations it may be possible for your EU customer (the EU party receiving the goods) to act as the importer. However, whether this is an option will very much depend on your relationship with your customer as there would be numerous obligations they would take on if they are to act as the importer.

In some circumstances, it may be difficult to ensure that all stock without an EU/NI address label is placed on the EU market prior to 1 January 2021. Where it is impractical to have such produce re-labelled, it may be permissible to over-sticker the UK address with the new EU/NI address, provided of course that this is easily visible and complies with the other regulatory requirements such as font size and clear legibility. It is worth noting that the regulations state that the mandatory information "shall be printed on the package or on the label" and should be "where appropriate, indelible". If you are to use stickers therefore they must be placed in a conspicuous location and must not be easy to peel off from the package. We would recommend therefore that this is only undertaken as a temporary measure whilst a more permanent labelling solution is found to ensure the preservation of the information for the end consumer.

What does the importer have to do?

When importing from non-EU countries, importers are responsible for ensuring the mandatory food information is present on your labelling and that it is both accurate and in accordance with the applicable EU regulations, along with any national requirements where appropriate. It is therefore the importer's responsibility to check that products fulfil all EU safety, health and environmental protection requirements before placing them on the market. This includes ensuring food information and labelling requirements are correct. The importer has to verify that:

- the manufacturer outside the EU has taken the necessary steps to allow the product to be placed on the EU market;
- the necessary documentation such as the EU Declaration of Conformity and the technical documentation is available upon request; and
- contact with the manufacturer is possible at any time.

Whoever takes on the role of your EU representative, you will need to assess whether they are likely to require further documentation/information for them to be able to confirm compliance with EU food laws, such as safety, composition and nutritional information. You will also need to ensure that there are clear lines of communication between you and your representative, particularly in the event of feedback from your EU consumers.

How do I find an importer?

There is no definitive list of importers at present however, there are a number of companies in Europe/Northern Ireland already set up to operate as importers and most are able to provide this service for any type of product being imported. Your current importer may be willing to offer the use of their address on your product labels, or they may be able to recommend a third party you could use. Where this isn't the case, it may be worth utilising UK contacts to see whether they can recommend an appropriate service provider. It is important that you identify a reputable importer as soon as practicable to ensure you have the necessary arrangements in place prior to the end of the transition period.

Conclusion

What is clear is that there is still a significant amount of work required in order to ensure that products can continue to be sold in the EU at the start of 2021. Whilst Brexit negotiations remain ongoing and it is hoped that a free trade agreement can be reached before the end of the year, the reality is that companies need to start preparing for these changes now. Whilst negotiations continue, it is likely to remain the case that all products sold into the EU from the UK are going to have to comply with these EU regulations. We therefore recommend that you act now to ensure your products are in compliance by 1 January 2021.

The Walker Morris Regulatory Team has a depth of experience in advising businesses on compliance with food labelling requirements. If you are concerned about your compliance with food labelling requirements and need to better understand your position, we would be happy to hear from you.

Direct contacts



Rachel Turnbull, Senior Associate, Regulatory
+44 (0)113 283 4438
rachel.turnbull@walkermorris.co.uk



Francesca Poole, Associate, Regulatory
+44 (0)113 283 4565
francesca.poole@walkermorris.co.uk

Walker Morris LLP
33 Wellington Street
Leeds LS1 4DL
T+44 (0)113 283 2500

www.walkermorris.co.uk