

WHAT ABOUT SME?

The UK is no longer part of the European Union. Here is your practical guide to EU Transition and how to secure advice, knowledge and finance for your business.



llep growth hub
business gateway
supporting business growth

In Partnership with

FREETHS

Speak to an adviser on 0116 366 8487 or visit
www.bizgateway.org.uk/trading with Europe Support

W E L C O M E

to your guide on how your business can benefit from a range of EU transition business support initiatives and grants



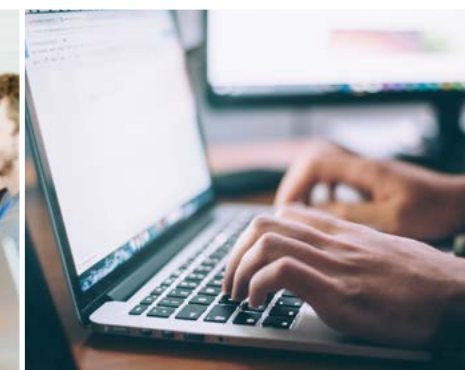
2021 sees a new start for an independent Britain and offers businesses a range of opportunities to develop and grow throughout this period of change.

What many small and medium sized businesses do not realise is that there are multiple grants and initiatives available to help them achieve their goals during this period of transition.

The Business Gateway Growth Hub offers free and impartial advice to SMEs in Leicester and Leicestershire. We can also signpost you to other support available and how to take advantage of it.

This guide, produced in partnership with Freeths, offers a clear and concise guide to what's available, who can apply and what the criteria are, along with information on further areas of support such as expert advice, 121 consultancy and support with your applications.

It's our aim for Leicester and Leicestershire to become one of the most productive economies in England with healthy growth, people and businesses.



growth...support...finance...webinars...experts...strategy...resilience... growth...support

WHAT'S INSIDE

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NEW SUITE OF POST-BREXIT SUPPORT OFFERED TO LEICESTERSHIRE SMES WITH EU CONNECTIONS



At a time when survival is the number one priority for your SME, keeping up-to-date with all the changes in legislation and regulation in Europe can be impossible, even if you have the time. So, we're doing it for you. The Growth Hub is the one stop shop for business support in Leicester and Leicestershire during this period and whenever you need us.

We're continuing to work with expert consultants who understand what changes are being made and how they might affect you. They provide updates through regular webinars and they are available

for 1-2-1 sessions to discuss your specific issues and help you get the answers you need. If there's an issue that they can't answer, they will bring in other experts who can. Importantly this is at no cost to your business.

If you're wondering what we mean when we say 'EU connections', this can include employing EU nationals, holding data on EU customers or suppliers, selling goods that come from the EU or using materials or components from the EU in your supply chain. If you're not sure, we're happy to work with you to see if you do have any connections that you might be unaware of.

ONLINE SUPPORT & EU WEBINARS

The Growth Hub's website provides a wealth of information and expert content in a number of areas including:

- Data protection rules and the EU
- Import, export and transport
- Business resilience and planning
- Support from www.gov.uk
- Marketing and selling into Europe
- Managing your supply chain
- Business contracts and insurance

In recent months all of our EU support sessions have been online. We have a full programme of events coming up this year and you can find all the details and book your place free at www.bizgateway.org.uk/events

If you missed any previous EU webinars don't worry, you can find past events on our website.

1-2-1 SUPPORT

It can be useful to attend a session if you need a general introduction to a subject like import regulations and VAT. Our webinars are very valuable in that respect. However, when you need detailed answers to very specific questions relating to your unique business issues, our 1-2-1 support is invaluable.

That's why we commission experts to provide the most up-to-date and accurate information and advice about trading

with the EU and make them available to you at no cost. Not only do they support you through your initial session but they can continue to support you after that to ensure that you always have an expert to call on.

Jon Egley, Growth Hub Manager (pictured), comments: "Although Brexit has been in the headlines for a number of years, the delays regarding the final deal and numerous legislation changes left many business owners in the dark about next steps. Couple this with the COVID-19 pandemic and you have a perfect storm where SMEs across Leicestershire are exposed from an information and support perspective.

"At the Growth Hub, we aim to make the transition as smooth as possible by streamlining the way we offer support and guidance to business owners, so that they can focus on running their businesses and ensuring their survival, rather than hunting for accurate and up to date information.

"Whether you have a general query or are looking for advice on a more complex topic, the team is here to help. Simply head to our website and submit an enquiry form to arrange for one of our business advisers to give you a call."

See the full list of EU webinars at www.bizgateway.org.uk/events

Call our EU Support helpline on 0116 482 0111

NEW EURO TARIFFS AND CHARGES – AND HOW TO MAKE SURE YOU’RE NOT PAYING TOO MUCH



Leaving the EU and its former trade deals has meant that there has been an explosion of new regulations, tariffs and ways of reporting to Customs and HMRC, and many more still yet to come as deals are negotiated and confirmed.

To ensure you can continue to trade

with Europe – and the world – and be confident that you are following the new rules correctly, we’ve launched our EU Connections campaign, which aims to make this period less confusing, helping business leaders like you in Leicester and Leicestershire to focus on running their operations and trading successfully.

WATCH AGAIN! The Rules of Origin webinar, focuses on Avoiding Tariffs and Charges.

This video will be especially useful if you represent a business selling goods into the EU that are not wholly manufactured in the UK, and rely on components, materials and ingredients from a range of origins; or are looking to see if there is an export market for your product, this could be especially useful.

Free to watch again, this 90-minute webinar will show you:

- An overview of the rules of origin and where you might fall foul.
- Some classic examples of where companies are falling foul.
- How to ensure your products comply with the rules of origin to avoid tariffs when selling to the EU.
- How to plan and move to full compliance.
- How to audit your supply chain.
- How to onshore elements of your supply chain to ensure compliance and invest in local skills and work.
- Where to find additional help and support.

Watch this webinar [here](#).

PEOPLE ARE ALSO CLICKING:

Understanding Rules of Origin within the context of the UK-EU Trade and Cooperation Agreement webinar.

This 60-minute webinar covers the key topics you need to know about under the UK-EU Trade and Cooperation Agreement (TCA), including free circulation of goods, preferential trade and customs and compliance.

Watch this webinar [here](#)

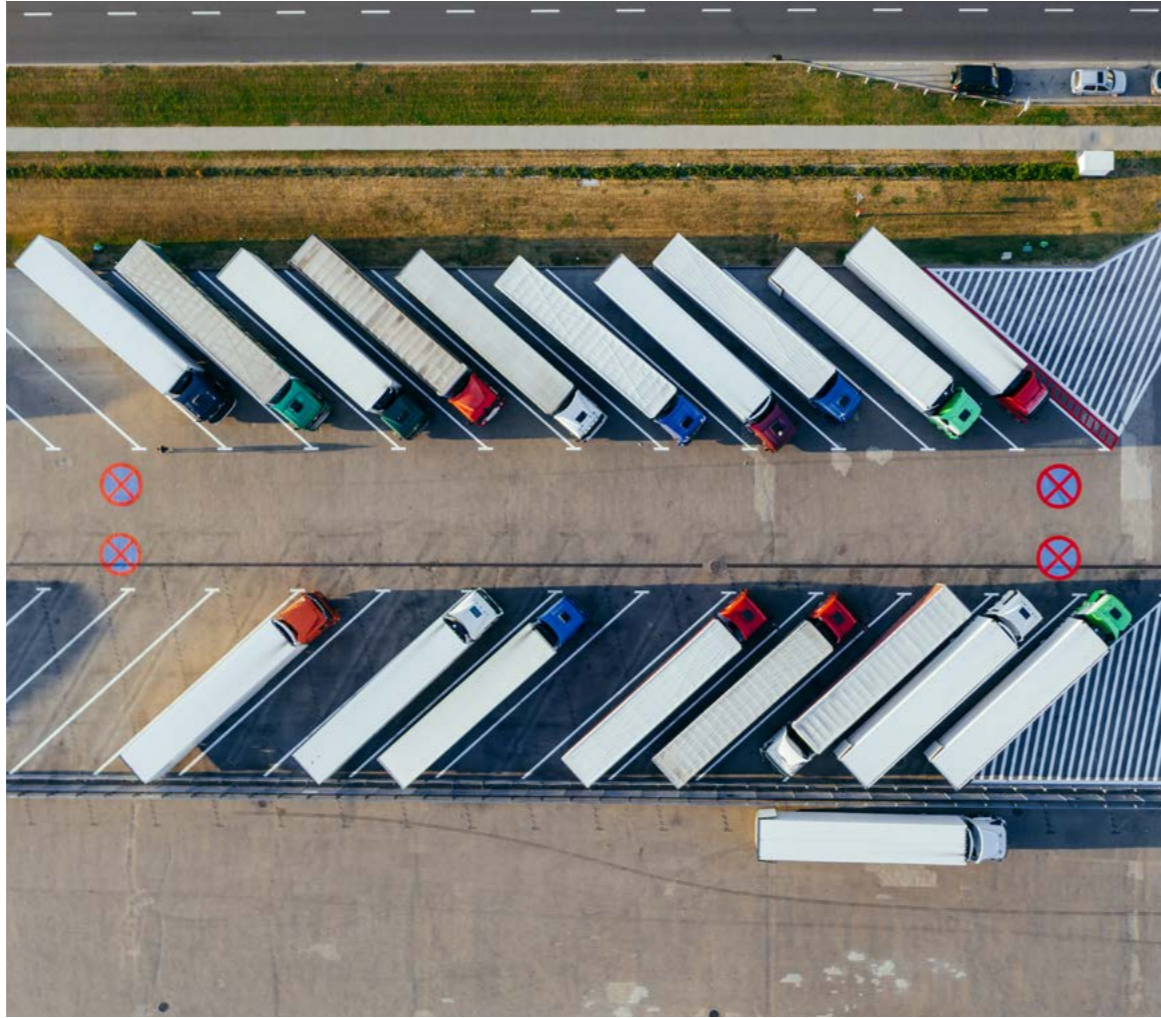
FURTHER SUPPORT:

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A team of trade specialists are also on hand to offer 1-2-1 consultations for more complex enquiries.

To book a dedicated 1-2-1 with an expert practitioner, or to view the current webinar programme, go to www.bizgateway.org.uk/events and simply book your slot.

UK BORDER READINESS – WHAT DOES BREXIT MEAN FOR HAULIERS AND DRIVERS?



As we head further into 2021 and the impact of Brexit becomes ever more apparent, one of the more critical discussion points is how it will affect the movement of goods between the UK and EU, and what it will mean for businesses within the haulage and transport industries.

To ensure you can continue to trade with Europe – and the world – and be

confident that you are following the new rules correctly, we have launched our EU Connections campaign, which aims to make this period less confusing by helping business leaders – including hauliers – in Leicester and Leicestershire gain access to the right information to enable them to focus on running their operations and trading successfully with minimum disruption.

WATCH AGAIN!

The UK Border Readiness webinar focuses on Haulage and Transport industries delivering to/from Europe.

If you are a haulier, driver or business professional within the transport and logistics sector, this webinar will give you the tools you will need to continue to trade with and within EU countries.

Free to watch again, this 60-minute webinar will help you with:

- What Brexit means for Hauliers and Drivers.
- What Hauliers and Drivers need to do now.
- Changes following the UK-EU agreement and what documentation will be needed.
- How a Customs Broker can help you overcome difficulties.
- Previous Frequently Asked Questions from RHA Customs Brokerage webinar series.

Watch this webinar here.

Commenting on the UK Border Readiness webinar, Growth Hub Manager, Jon Egley says: "There has been an exponential rise in red tape

and new documentation when it comes to moving goods and people in and out of the UK. To remain competitive, with minimum fuss or fines, it is critical that our hauliers are up to date with the new ways of working. This webinar will give hauliers and drivers – whether regular or occasional border crossers – all the right tools to navigate future journeys with minimum delay".

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OVERCOMING THE NEW COMPLEXITIES OF B2C SALES INTO THE EU



The UK's online retail market is worth an estimated £72 billion. It's the third largest in the world, number one in Europe, and has boomed in a large part due to unfettered access to more than 450 million EU consumers. Leaving the EU has brought a number of changes and challenges not only for e-commerce businesses, but for B2C sales as a whole.

More than 65% of UK e-tailers were said to have done little to no preparation for the end of the transition period. The introduction of customs controls and checks as well as the loss of Distance Selling thresholds under the EU VAT Directive, has left many of them wondering if continued selling into the EU is even viable.

EU e-commerce is a more complex landscape than it

was before 1st January, but there is still demand for British goods from EU consumers. However, in order to succeed in this new phase of trading, e-tailers and B2C companies need to increase their knowledge and adapt to overcome these new barriers. They need to understand the essentials of international trade, shipping terms, VAT implications, local regulation, and important facilitations that will emerge over coming months, such as the EU One Stop Shop planned for July.

BOOK YOUR PLACE:

This webinar takes place on Tuesday 11th May, 2-3pm (GMT), or can be watched again after that date via www.bizgateway.org.uk

Online sellers to the EU – potentially trade but definitely consumer, companies with their own e-commerce site or using others like Shopify, for example will find this webinar useful.

This webinar and Q&A will improve your knowledge on:

- Regulatory changes due to the withdrawal of the e-Commerce Directive,
- What e-commerce sellers have to do to remain compliant in individual Member States,
- Export/import declarations and documentation for goods,

- How duty is calculated,
- The implications for VAT on exported goods given that the UK is now outside of the EU VAT Directive and Distance Selling Thresholds are withdrawn. This includes understanding Incoterms and options for accounting for VAT on sales.

To reserve your space at this no-cost webinar on 11/05, simply click [here](#).

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FREETHS **BREXIT UPDATE:** DATA PROTECTION AND YOUR BUSINESS



If you are a business that holds personal or sensitive information or transfers it to/from the EU, you should be aware of the data protection rules in place now that the UK has left the EU.

When the transition period ended on 31 December 2020, most of the UK data protection rules affecting small businesses stayed the same. But if you have contacts or customers in the EEA, EU rules may apply. You might need to take a couple of extra steps to make sure you can still get the data you need and comply with EU law – and this is where you might need support and guidance.

The UK Government has expressed a commitment to retaining the high standards of EU data protection law. The UK therefore incorporated the GDPR into its own national legislation post-1 January 2020. However, from that point the UK is able to keep this legal framework under review.

The Business Gateway Growth Hub – in partnership with Freeths LLP – has set out the following information to help your organisation decide what it needs to do, now that the Brexit transition period has ended and the Brexit Deal is in place, here's what you need to know:

IF YOU ARE AN ORGANISATION THAT...

- 1/** Receives personal data from the EU you should consider how to legitimise the flows of personal data you receive from the EU and how to implement any changes needed, in the event that the EU does not deem the UK an "adequate" third country by the end of the transitional period for data transfers under the Brexit Deal, although with the publication of a draft adequacy decision on 19 February, this risk seems to be reducing. Please see Freeths' Data Transfers article to find out more.
- 2/** Has an office, branch or other "establishment" in the EU you will need to operate under both the UK and EU data protection laws following the transition period.
- 3/** Offers goods and services into the EU, but is not "established" in the EU you may need to select and appoint someone to represent you in the EU from 1 January 2020. Please see Freeths' EU Representatives article to find out more.
- 4/** Will continue to carry out cross-border processing in the EU, and your current lead authority is the UK's data protection authority (the "ICO") you may need to select a supervisory authority to be your lead data protection authority in the EU at the end of the Brexit transition period. Please see Freeths' EU Data Protection Authority article to find out more.

5/ Already complies with the GDPR and has no contacts or customers in the EU then all this is unlikely to affect you, and you can continue as you are.

And finally, the position is an evolving one. Organisations should monitor the situation for updates, including from the UK ICO www.ico.org.uk

Information provided by Freeths LLP. For further information see the Freeths Brexit exchange at <https://www.freeths.co.uk/brexit-exchange/> or to speak to one of the team directly visit www.freeths.co.uk

Information correct as at: Friday 26 March 2021.

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FREETHS **BREXIT UPDATE:** ELECTRIC VEHICLES AND RENEWABLE ENERGY



Few would argue that the world is in a period of flux. Carbon neutrality is not only something that many are striving for in their personal pursuits, but also from a business perspective. For some, this is an opportunity to create competitive or economic advantage through enhancing their green credentials. Couple this with the looming 2030 deadline that will see the end of the sale of new diesel and petrol vehicles, and the next decade will see huge changes that SME businesses in Leicester and Leicestershire must navigate.

The EU–UK Trade and Cooperation Agreement is a free trade agreement signed on 30 December 2020, between the European Union, the European Atomic Energy

Community and the United Kingdom. It has been applied provisionally since 1 January 2021, when the Brexit transition period ended, and that provisional application has since been extended to 30 April 2021.

Within its 1,246-page document and accompanying explanatory summary, it contained wide-reaching provisions in areas including trade, intellectual property, taxation and public procurement.

The Business Gateway Growth Hub – in partnership with Freeths LLP in Leicester – have identified four provisions of particular interest to those SME businesses involved in the electric vehicle and/or renewable energy markets. Here's what you need to know:

1/ Preferential Electric Vehicle & Battery Tariffs

The UK and EU have agreed a preferential tariff for UK-produced electric vehicles (EVs) and batteries. Prior to the agreement, the EU were set to insist on a 10% tariff on EVs produced in the UK and with more than 45% of their original parts made outside the UK. This concession will assist in keeping down the cost of manufacturing EVs and batteries in the UK and assist the Government in its commitment to ban the sale of new diesel and petrol vehicles by 2030.

2/ Freedom Of Electric Vehicle-Related Information And Innovation

The agreement provides that neither party can restrict access to markets for motor vehicles, equipment or parts approved by either party on the grounds that the product being exported contains a new technology or feature that the other party has not yet regulated. The UK and EU have also agreed to cooperate and exchange information in relation to advanced emission reduction and emerging vehicle technologies.

3/ Enhanced Cooperation In Renewable Energy

The UK and EU have agreed to enhance their cooperation in relation to renewable energy and security of energy supply. Measures include implementing new frameworks for development of offshore energy generation, efficient use of gas and electricity interconnectors (discussed below), gas decarbonisation

and gas quality. The UK and EU have also agreed to develop hybrid projects in the North Sea, combining interconnectors and offshore windfarms to realise the region's potential and create a reliable network to deliver a 'Net Zero' future.

4/ Energy Trading Arrangements

There is an agreement to develop and implement a new and efficient energy trading arrangement by April 2022. This includes ensuring that capacity allocation and congestion management of energy interconnectors (high power electricity cables linking the GB grid to electricity networks in other countries) is market-based, transparent and non-discriminatory.

It is hoped that these provisions will enable both the EU and UK to continue to develop as world leaders in renewable technologies and to allow both parties to meet their respective carbon reduction targets in accordance with the Paris Agreement.

Information provided by Freeths LLP. For further information see the Freeths Brexit exchange at www.freeths.co.uk/brexit-exchange/ or to speak to one of the team visit www.freeths.co.uk

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FREETHS **BREXIT UPDATE:** EMPLOYMENT LAW AND BUSINESS TRAVEL TO EUROPE



The Trade and Co-operation Agreement has implications for the future of employment law and policy in the UK.

The Business Gateway Growth Hub – in partnership with Freeths LLP – have set out the following information to help your organisation decide what it needs to do now that the Brexit transition period has ended and the Brexit Deal is in place. Here are the answers to all the burning questions.

What does the new trade agreement say about changes to employment law?

The European Union (Withdrawal Agreement) Act 2018 (the 'Withdrawal Agreement') copied all EU-derived employment laws into domestic law, so that these would continue to apply in the UK regardless of the transition period ending. The Withdrawal Agreement did not contain any guarantees about what would happen in the future regarding employment law and policy.

The new Trade and Co-operation Agreement says that the UK and EU are able to create and amend their own employment law going forwards. Such changes should not weaken or reduce the level of employment rights in place as at 31 December 2020, in a manner affecting trade or investment (the 'Non Regression Principle'). Accordingly, the UK cannot weaken employment protections to give UK employers a competitive trade or investment advantage over the EU.

If a future change to UK employment rights has a material impact on trade or investment, the EU may take "rebalancing measures" e.g. by imposing tariffs on goods or referring the matter to independent arbitration by a panel if both sides cannot agree a resolution.

Will my employees' professional qualifications be recognised in the EU?

No. Employees with a professional qualification gained in the UK will no longer have this automatically recognised in an EU member state, and vice versa. This may result in difficulties where employers provide professional services across different countries. UK and EU member states will seek to agree profession-specific arrangements in the future. Until this happens, the Government provides guidance on professional qualification recognition which depends on:

- The type of professional

qualification;

- Whether the employee's qualification had been formally recognised in the EU member state prior to 31 December 2020;
- Any specific rules regarding the professional qualification which apply in that EU member state.

There is mutual recognition of professional qualifications between the UK and Iceland, Liechtenstein, Norway and Switzerland.

Has anything changed for business travel?

This depends on the length and purpose of the business travel. As well as following new rules which apply to all passengers (e.g. having 6 months left on a passport at the date of travel), employees on business travel may need a visa, work permit or other documentation if the employee:

- Plans to stay in a different country for longer than 90 days in a 180-day period;
- Is taking part in an intra-corporate transfer for any period of time (i.e. transferring from a company's UK branch to a branch in a different EU member state);
- Is carrying out contracts to provide a service to a client in another EU member state where the employer has no presence.

The Government guidance here confirms the documentation required

for business travel to EU member states, Iceland, Liechtenstein, Norway and Switzerland.

What about working time for drivers travelling between the UK and EU?

The new Trade and Co-operation Agreement confirmed that the current rules for drivers of vehicles transporting goods between the UK and EU will continue including:

- Working time;
- Breaks;
- Rest periods; and
- Tachographs.

What UK employment laws could change in the future?

The Business Secretary had previously stated that the Department for Business, Energy and Industrial Strategy would be reviewing how EU-derived employment rights could be changed after Brexit. However, he has now confirmed that this review of workers' rights has been cancelled.

The employment law landscape will inevitably change over the coming years. Due to the Non Regression Principle, wholesale changes of existing EU-derived employment laws are unlikely.

It has been rumoured that the Working Time



Regulations which implement the EU Working Time Directive and which set a maximum 48-hour working week might see some change.

Will the UK have to implement future EU employment law?

No. Provided that the Non Regression Principle is adhered to, the UK can choose whether or not to introduce similar laws to those being implemented across the EU. This has already happened in a few areas, e.g. the

UK Government has promised a future Employment Bill which will introduce carer's leave, and a right to request a more stable and predictable contract. From August 2022, EU member states will need to implement such rights as a result of the EU Work-Life Balance for Parents and Carers Directive, and the EU Transparent and Predictable Working Conditions Directive.

What do I need to consider when recruiting from EU countries?

The end of the transition period meant the introduction of new immigration

rules for European nationals arriving in the UK for the first time. You can read specialist advice from the Freeths Business Immigration team on the Brexit Exchange, including:

- The new Rules for the post-Brexit immigration system
- Do I need to change my right to work process for European nationals post-Brexit

Information provided by Freeths LLP. For further information see the Freeths Brexit exchange at www.freeths.co.uk/brexit-exchange/ or to speak to one of the team visit www.freeths.co.uk

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FREETHS **BREXIT UPDATE:** INTELLECTUAL PROPERTY, TRADEMARKS AND PROTECTING YOUR BRAND

Many business owners and entrepreneurs have invested heavily in their brands and trademarks over the lifetime of their businesses, in turn creating valuable assets in the process. But how does leaving Europe leave businesses looking to protect their brands, intellectual property, or trademarks overseas?

The Business Gateway Growth Hub – in partnership with Freeths LLP – have set out the following information to help your organisation decide what it needs to do now that the Brexit Deal is in place. Here are the answers to all the burning questions regarding Intellectual Property.

Will EU trade mark registrations continue to provide protection in the UK post-transition period?

Yes. Owners of EU trade marks registered prior to 1 January 2021 will automatically be provided with a cloned equivalent UK trade mark. This will be free of charge; nothing is required of the trade mark proprietor to obtain the registration. A certificate will not be issued but details of the newly cloned mark will be available online. Trade

mark owners can opt out of receiving a cloned UK trade mark registration, if they so wish.

Will pending EU trade mark applications also be cloned free of charge at the UK intellectual property office (UK IPO)?

No. Applicants will be given up to and including 30 September 2021 to apply (and pay a fee) to the UK IPO for an equivalent UK application. Provided that the UK application mirrors the pending EU application, the UK equivalent trade mark will be given the earlier filing date of the pending EU application and carries with it any international priority claimed by the pending EU application.

It will however, be subject to examination at the UK IPO in the usual way, regardless of whether examination had already been completed at the EU IPO.

Will the UK cloned trade mark be maintained in conjunction with the existing EU trade mark?

The EU trade mark and the cloned UK trade mark will be treated as separate rights. Trade mark maintenance such as renewals will need to be done both at the UK



IPO and the EU IPO to ensure that both marks remain registered.

Does a trade mark proprietor need to use the trade mark in the UK and the EU after the expiry of the transition period?

A UK and EU trade mark is vulnerable to revocation if the proprietor fails to make use of the trade mark for an uninterrupted period of five years or more. Revocation for non-use is not automatic, but enables a challenger to apply to have another's trade mark revoked.

Use of a trade mark in the UK and EU prior to and including Exit Day will be taken into account for use to maintain UK/EU registrations (as applicable) for a limited period after Exit Day (to a maximum of five years).

Owners of UK and EU trade mark rights should assess where they are using their mark and take steps to safeguard against revocation.

What happens to pending proceedings at the EU IPO?

Opposition proceedings against the registration of an EU application based solely on an earlier UK right will be concluded and the UK right holder will need to consider filing opposition proceedings against any new UK application the EU owner may file for.

Opposition proceedings against the registration of an EU application based on earlier UK rights and earlier EU rights will continue but will no longer take into account the UK rights. The UK owner will need to consider filing opposition proceedings against any new UK application the EU proceeds with.

Will international trade mark registrations with EU designations provide proprietors with protection in the UK further to the expiry of the transition period?

A mirrored UK trade mark registration will be created. This is not an international designation for the UK, but an exclusive UK trade mark which will need to be treated separately from the international mark. However, the UK rights can be merged back into the international registration if required.

What happens to injunctions?

Where an injunction in place at 1 January 2021 prohibits acts in the UK which would infringe an existing EU trade mark registration, the terms of that injunction will be treated as if they also apply to the newly cloned UK trade mark.

How do I continue to stop counterfeit goods?

If you have an existing EU Customs Application for Action (AFA) in place prior to Exit Day, then a cloned AFA for the UK only will be created. A new EU AFA can be filed to cover the EU.

What do I need to do with my domain names?

Owners of .eu domain names must have an



establishment in the EEA. If UK based owners do not have an establishment in the EEA within 2 months after Exit Day, their domain will be withdrawn.

UK-based owners who do not have an establishment in the EEA within 1 year of Exit Day, will find their .eu domain names will be cancelled and made available for others to purchase.

Information provided by Freeths LLP. If you are concerned or wish to find out more, please get in touch with the Freeths Intellectual Property team. Or visit www.freeths.co.uk

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FREETHS **BREXIT UPDATE:** SUPPLY CHAINS AND COMMERCIAL CONTRACTS UNDER THE NEW TRADE AND COOPERATION AGREEMENT.



After many months of negotiations, the UK-EU Trade and Cooperation Agreement (TCA) was agreed in principle on 24 December 2020, and signed before the end of the transition period.

Covering Trade, Governance, Compliance, Subsidies and State Aid, Fisheries, Security and more, the Business Gateway Growth Hub – in partnership with Freeths LLP – has set out the following information to help your organisation decide what it needs to do now that the Brexit transition period has ended and the Brexit Deal is in place.

Here are the answers to all the burning questions

regarding Supply Chains and Commercial Contracts under the TCA.

A key aspect of the TCA is the implementation of a free trade agreement. This will provide much-needed certainty as to the trading relationship between the UK and the EU, and covers the following main areas:

1. Zero tariffs for goods exported and imported between the UK and the EU, where those goods comply with the rules of origin. In the absence of a deal, the WTO rules position that would have applied would have made trade significantly more expensive. Note that this applies not only for new

products, but products being returned for repairs etc.

2. Rules of origin rules allow for “full cumulation”, which means that UK-originating products that incorporate EU inputs can still be considered as products of UK origin and therefore benefit from the zero tariff rules. Note that what is known as “diagonal cumulation”, which would cover UK-originating products that incorporate inputs from third countries with which the EU also has trade deals, is not included in the TCA. Traders will be permitted to self-certify the origin of goods.

The rules of origin are complex, taking up around 50 pages of the TCA, and businesses will need to examine these carefully to ensure that they are making correct declarations. Different types of product have different thresholds for what proportion of the product can come from outside the free trade area.

For example, for white chocolate to meet the rules, the total weight of sugar originating outside the area must make up no more than 40% of the weight of the product. The rules also set out what processing activities count as a “transformation” that lets a product be treated as being produced in the UK, for example yarn dyeing combined with weaving, but not yarn dyeing on its own.

3. Customs procedures will be simplified, including provisions bespoke to the UK/EU relationship such as cooperation at

‘roll-on roll-off’ ports, and the parties will be exploring the possibility of sharing import and export declaration data. In addition, mutual recognition will be implemented for Trusted Trader Schemes, with streamlined procedures available for eligible traders. The parties will also cooperate on recovery of customs duties and combating VAT and indirect taxes fraud. However, border checks will still apply to all goods, meaning a degree of disruption at the UK/EU border that has not previously occurred.

Note also that the EU’s assessment of the UK’s sanitary and phytosanitary regime has been reserved by the EU as a unilateral decision for the EU to take, and is therefore not covered by the TCA, although the UK has been granted “national listed status” which ensures exports of live animals and animal products can continue.

Note also that there are different rules in place that apply to trade between Great Britain and Northern Ireland. In respect of goods being moved from Northern Ireland to Great Britain, where goods qualify, there will be no new customs processes except in very limited circumstances. Goods will qualify if they were in free circulation in Northern Ireland (not under a customs procedure or in an authorised temporary storage facility) before they are moved from Northern Ireland to Great Britain (although it is not permitted to use this facility to move goods from the EU through NI to GB in order to avoid customs requirements).

For further detail see the HMRC guidance on moving goods from Northern Ireland to Great Britain. There are, however, customs declarations required on goods arriving in Northern Ireland from Great Britain; for further detail see the HMRC guidance.

4. Technical barriers to trade will be reduced by a number of measures such as providing for self-declaration of regulatory compliance for low-risk products, and for facilitating other specific products of mutual interest, particularly in respect of the following:

- **Medicinal products:** Mutual recognition of Good Manufacturing Practice inspections and certificates, removing the need for businesses to carry out separate UK and EU inspections of their manufacturing facilities.
- **Motor vehicles and equipment:** Mutual recognition of approvals based on UN regulations, as well as cooperation mechanisms and information exchange.
- **Organic products:** Equivalence agreement to ensure products certified as organic in the UK are recognised as organic in the EU and vice versa, as well as provisions for effective regulatory cooperation

and collaboration on the future development of organic standards.

- **Wine:** Simplified certification, document, labelling and packaging requirements for imports to either territory.
- **Chemicals:** Joint commitments to comprehensive implementation of international classification and labelling rules, ongoing cooperation and information exchange.

In addition, the TCA includes a raft of provisions aimed at a wider economic, social and environmental co-operation. These are intended to facilitate trade between the UK and the EU, including arrangements to facilitate business travel and the provision of services, arrangements to ensure continued smooth running of air and road transport, new trading arrangements for energy and telecommunications, and the much-discussed “level playing field” provisions, which effectively prevent a party from “undercutting” the other unfairly by lowering standards in areas such as environmental and climate protection and workers’ rights.

To a degree, there are still uncertainties as to how the UK-EU relationship will work, with many

provisions requiring “cooperation” but without, at present, any detailed rules, and there are a number of committees and working parties to be established.

No doubt discussions will be ongoing for many years to come. This, together with the scope for the divergence of UK law from European law will mean an ongoing level of uncertainty that will need to be catered for in commercial contracts.

The key uncertainties that businesses need to deal with in their contracts are the potential for increased costs, and the likelihood of delays or difficulty in the supply of goods or services. Increased costs could be in the form of import or export tariffs, the additional costs of using customs agents to deal with border formalities, difficulties in staffing services in the right locations, or economic changes such as exchange rate movements. Delays and difficulty of supply could arise from the increased border formalities, but also might be due to difficulty in supplying or obtaining suitable goods due to divergence in regulatory regimes, or difficulty in moving staff across borders.

If the contract is silent on these aspects, it will typically be the supplier who takes these types of risks, as they will be committed to providing the goods or services to a timetable and for a price.

There are a number of contractual mechanisms available to parties to deal with allocating the responsibility for

changes. For example, a price review clause may allow a suppliers to take into account an increase in the costs of raw materials caused by inflation or unfavourable exchange rate mechanisms.

Even where a business is obliged to take on these types of risks itself, there may be other mitigating measures that it can put in place, such as insurance or hedging, broadening its own supply chain, or even revisiting contract commercials such as the period of time for which it is committed to the contract.

Information provided by Freeths LLP. For further information see the Freeths Brexit exchange at <https://www.freeths.co.uk/brexit-exchange/> or to speak to one of the team directly visit www.freeths.co.uk

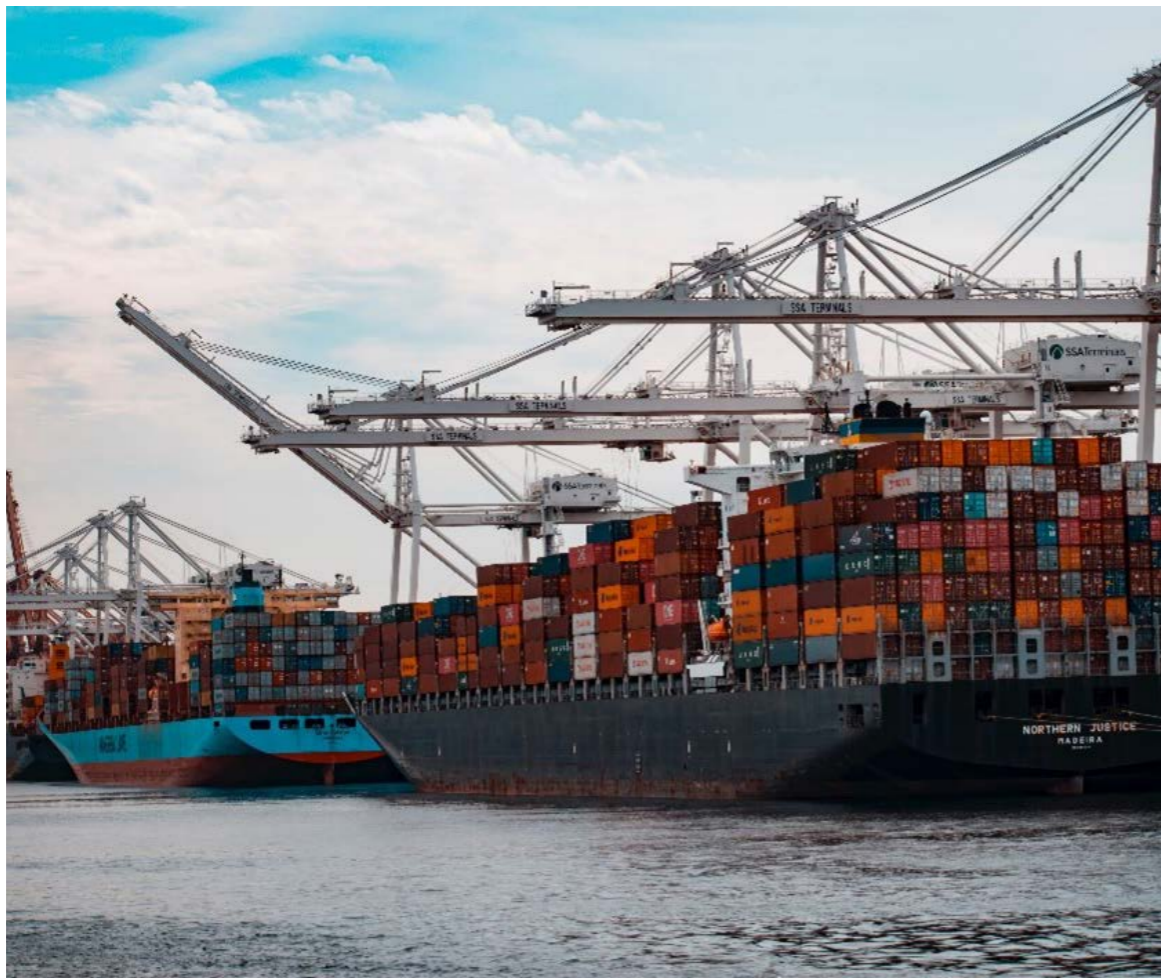
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Transport and haulage is an area in which the UK-EU Trade and Cooperation Agreement (TCA) was keenly awaited, given the critical nature of movement of goods and people between the UK and the EU.

The TCA has improved the position as of the end of the transition period from the no-deal scenario, although it is of course a less favourable position than the UK enjoyed as part of the EU.

The Business Gateway Growth Hub – in partnership with

Freeths LLP – have set out the following information to help your organisation decide what it needs to do now that the Brexit transition period has ended and the Brexit Deal is in place.

Here are the answers to all the burning questions in respect of aviation, haulage and passenger transport.

AVIATION

According to the terms of the TCA, subject to its provisions on air

traffic rights (described below), the EU will grant rights for UK air carriers to operate on routes from the UK via intermediate points to points in the EU and beyond. Similarly, the UK is to grant EU carriers the right to operate on routes from the EU via intermediate points to points in the UK and beyond.

UK and EU operators are now treated as third country operators in each other’s airspace as of 1 January 2021. Under the TCA, the EU and UK each grant to the other’s respective air carriers the following traffic rights:

- first and second freedom rights (i.e. to fly across the other party’s territory without landing and to make stops in its territory for non-traffic purposes); and
- third and fourth freedom rights (i.e. to make stops in the other party’s territory to provide scheduled and non-scheduled air transport services (passengers and/or cargo) between any points in its territory and any points in the other party’s territory).

Whilst UK and EU carriers are not automatically entitled to operate routes which have an intermediary stop in the EU or UK respectively (fifth freedom rights), the TCA does permit the UK and individual EU Member States to negotiate their own arrangements for fifth-freedom all-cargo flights.

EU and UK carriers are entitled to receive operating authorisations from each other’s respective aviation authorities if

they meet a list of specified conditions, including conditions relating to:

- ownership and control;
- principal place of business
- holding an air operator certificate;
- effective regulatory control by their competent authority; and
- safety and security.

In respect of ownership and control, UK carriers must be owned and effectively controlled by UK nationals alone. However, there is a transitional provision which allows that, if the carrier held a valid EU operating licence at the end of the transition period, it can obtain an operating authorisation if it is owned by nationals of the EEA, Switzerland and/or the UK. EU carriers must be owned and effectively controlled by EEA and/or Swiss nationals.

The TCA also allows for mutual acceptance of air safety certificates and licences, as well as containing provisions around co-operation on aviation safety and environmental matters, and provides mechanisms for further mutual recognition in future, in areas such as airworthiness, pilot licensing, and air traffic management.

PASSENGER TRANSPORT

Similarly to aviation, the TCA allows for bus and coach operations to continue between the UK and the EU. This allows for both regular and occasional services, includes where services transit via a third country, and allows for a related unladen



journey to also take place. It does not permit a UK operator to transport passengers between two points in the EU (except within Ireland), and vice versa for EU operators in the UK.

The provisions set out in the TCA mirror the upcoming Protocol of the multilateral Interbus Agreement, which should come into force and replace the TCA's provisions at some point during 2021. The UK is already a signatory to the Interbus

Agreement, which currently permits occasional services; the Protocol will add provisions for regular services.

ROAD HAULAGE

The TCA permits both UK and EU operators to carry out road haulage between a UK location and an EU location (even when not loaded). UK hauliers will be able to transit across the EU on the way to a third country (for example from Holyhead to Dublin

in order to reach Belfast), and vice versa for EU hauliers (for example from Dublin to Holyhead in order to reach France).

In addition, hauliers will be permitted to carry out up to two additional operations in the other territory. This allows, for example, a haulier to take two separate loads for different destinations in one journey, or to deliver a load at one destination and collect a return load from a different location. However, any journey within the other territory must be connected with a journey to or from the hauliers' "home" territory; for instance,

UK hauliers will not be permitted to travel into the EU for the sole purpose of carrying goods from one EU location to another.

The rights granted in the TCA come hand in hand with the requirement for hauliers to comply with safety and working standards, such as driver hours limits, road traffic rules, professional qualification requirements, tachograph requirements, and vehicle specifications.

Information provided by Freeths LLP. For further information see the Freeths Brexit exchange at <https://www.freeths.co.uk/brexit-exchange/> or to speak to one of the team directly visit www.freeths.co.uk.

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ABOUT THE BUSINESS GATEWAY GROWTH HUB



The Growth Hub is a one-stop-shop for business support across Leicester and Leicestershire. We offer no-cost and impartial advice to local businesses of any size, with a particular focus on those who are looking to start up, grow and increase productivity.

We also offer a comprehensive webinar programme around core business themes including strategy, marketing, sales, leadership, finance, wellbeing and people.

Our team of dedicated business specialists have in-depth and up to date knowledge of the major areas of change enabling them to advise and guide you with confidence.

The Growth Hub is much more than a focal point for in-depth Brexit knowledge, it empowers business leaders with knowledge across all major functions needed in running and growing a small/medium sized enterprise.

All advice and signposting is offered free of charge and without bias across our 1-2-1 sessions, online webinars and informative website.

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